



12 June 2019

Resource Markets Policy  
Building, Resources and Markets  
Ministry of Business, Innovation & Employment  
P O Box 1473  
Wellington 6140  
By email: [resource.markets.policy@mbie.govt.nz](mailto:resource.markets.policy@mbie.govt.nz)

Dear Sir / Madam

**Re: Options for amending the Gas Act 1992**

Flick appreciates the opportunity to comment on MBIE's '*Options for amending the Gas Act 1992*' discussion paper. Our particular interest is in Part 3 of the paper on information disclosure.

Flick was a party to the Undesirable Trading Situation (UTS) claim to the Electricity Authority about electricity market activity during spring 2018. Lack of public information about gas supplies was highlighted in this claim.

In our view, there is a clear case for amending the Gas Act 1992 (the Act) to enable the Gas Industry Company (GIC) to make rules or regulations to improve the quality and quantity of information that is disclosed by gas industry participants. For example:

- the Minister expressed concern about the information disclosed in relation to a Pohokura outage before July 2019<sup>1</sup>
- the GIC agreed that "Part 4A of the Gas Act should be amended to clearly provide for the regulation making powers contemplated" by the Minister<sup>2</sup>
- MBIE argues in their discussion paper that timely provision of information underpins effective and efficient market behaviour<sup>3</sup>
- the Electricity Authority decision on the UTS claim identified there was information asymmetry (for a period of time) about gas supply.

In addition, the Electricity Price Review Options paper highlights issues with limited availability of key market information such as gas supplies. The Panel recommended an extension of the electricity sector disclosure rules to include information on the availability of generation fuel. Achieving disclosure of gas fuel for electricity generation would be more efficiently achieved via changes to the

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<sup>1</sup> <https://www.gasindustry.co.nz/dmsdocument/6412>

<sup>2</sup> <https://www.gasindustry.co.nz/dmsdocument/6414>

<sup>3</sup> <https://www.mbie.govt.nz/dmsdocument/5478-discussion-document-options-for-amending-the-gas-act-1992> paragraph 58 of the discussion paper

Gas Act. We note the Electricity Authority is working in close cooperation with the GIC on gas disclosure improvements.

Flick also support the Act being amended to provide appropriate regulation empowering provisions even if the GIC determines that a non-regulatory intervention is more suitable<sup>4</sup>. The current work by the GIC on improving information disclosure has revealed a range of perspectives that may prove difficult for an industry co-governance agency to reconcile in a way that is consistent with government's expectations.

In our view, disclosure of gas information and the consequences of asymmetric information has a much wider context than the principal policy objective of the GIC in the Gas Act 1992 *"to ensure that gas is delivered to existing and new customers in a safe, efficient, and reliable manner"*.

Overleaf is our response to the specific questions in the discussion paper.



Steve O'Connor  
CEO  
Flick Electric Limited

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<sup>4</sup> As in paragraph 67 of the discussion paper

## Questions

### **8. What concerns do you have about the flow and availability of information available to you or your organisation regarding situations that may affect the price and or/availability of gas supply?**

As discussed in the cover letter, Flick is concerned about the flow and availability of information on gas supply.

Flick was a party to the Undesirable Trading Situation claim to the Electricity Authority about the electricity market during spring 2018. The UTS claim provides extensive details on the consequences in the electricity market of the lack of widely available information about supply from the Pohokura gas field during 2018. The Electricity Authority's UTS decision found there was information asymmetry (for a period of time) with electricity generators using gas having information ahead of other electricity industry participants.

A change to the Gas Act to place obligations on downstream producers to provide information on planned and unplanned outages would place all electricity industry participants on a level playing field about the availability and supply of gas at all times. Information about infrastructure used to transport gas is also critical. Some time ago an unplanned outage on the gas transmission pipeline curtailed supply of gas to electricity generators having a significant impact on the electricity market.

Enhanced disclosure by producers and transporters of gas would enhance the information already required to be disclosed by electricity generators using gas.<sup>5</sup>

### **9. Do you support the inclusion of an additional regulation / rule making power in the Act to require broader disclosure of information from the gas industry?**

Flick supports greater transparency about gas supply and gas availability. Any change to the Act should enable disclosure of information on producers' planned and unplanned outages.

Information about the price of gas is also important for the electricity sector as an input into wholesale electricity prices. Currently, some forward looking information is available on emsTradePoint and historic information is available in operating reports from generators. However, the Act could be amended at this stage to enable more disclosure of gas prices in the event a case is made to require additional gas price information at a future time.

Flick also support the Act being amended to provide appropriate regulation empowering provisions even if the GIC determines that a non-regulatory intervention is more suitable<sup>6</sup>. The current work by the GIC on improving information disclosure has revealed a range of perspectives that may prove difficult for an industry co-governance agency to reconcile in a way that is consistent with government's expectations.

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<sup>5</sup> Genesis Energy and Contact Energy submissions to the GIC's options for information disclosure paper appear to support improved disclosure by gas producers. Submissions on this web page

<https://www.gasindustry.co.nz/work-programmes/gas-sector-information-disclosure/consultation/>

<sup>6</sup> As in paragraph 67 of the discussion paper