



Gas Act 2000

Notification of Determination

Amendments to:

Gas Retail Code

Gas Distribution Code

**Gas Customer Transfer and Reconciliation
Code**

17 March 2009

TABLE OF CONTENTS

1	BACKGROUND	1
2	CODE AMENDMENT PROCESS AND SUBMISSIONS RECEIVED	2
3	DETERMINATION – AMENDMENTS TO GAS CUSTOMER TRANSFER AND RECONCILIATION CODE	3
4	DETERMINATION – AMENDMENTS TO GAS DISTRIBUTION CODE	11
5	DETERMINATION – AMENDMENTS TO GAS RETAIL CODE.....	13
6	DETERMINATION – OTHER PROPOSED AMENDMENTS.....	14
7	RESPONSE TO OTHER COMMENTS.....	17

Section 1 Background

The *Gas Distribution Code* (Distribution Code) and *Gas Retail Code* (Retail Code) were issued by the Minister and the *Gas Customer Transfer and Reconciliation Code* (Transfer Code) by the Director of Gas (the Director) in accordance with the *Gas Act 2000*. These codes put in place a basis for industry co-ordination to facilitate all parties' dealings with each other and end-users in a competitive market.

In accordance with the *Gas Act 2000* and the three codes, the Minister or the Director may review the relevant gas codes and the Director is responsible for amending the three codes upon due consultation and determination. All three codes prescribe the conditions to be satisfied, and consultation process to be followed, by the Director in amending the codes.

As part of the Gas Regulatory Reporter Review in 2007, Nine Lives Systems Pty Ltd (the Regulatory Reporter approved by the Director) outlined in its report to the Director a number of deficiencies in the three codes concerning the effectiveness of the codes in facilitating business-to-business dealings and business-to-customers dealings in a competitive market. The Nine Lives report makes recommendations on the operative/technical matters in the codes and also raises some policy related issues.

The Director referred the policy related recommendations to the Minister for Energy for his consideration.

To progress the recommendations relating to technical code matters, the Director established a Gas Code Review Working Group (GCRWG) to assess the appropriateness of the recommendations in the context of the objectives of the gas legislation and Tasmania's gas regulatory framework.

After reviewing these technical recommendations, the GCRWG reported to the Director, recommending a number of amendments to the three codes to enhance, in particular, the business-to-business processes in the codes.

The membership of the GCRWG comprised:

- a representative from the gas distribution business;
- representatives from the gas retail businesses;
- a representative of the Director of Gas; and
- a representative from the Office of Energy Planning and Conservation.

The Director considered the GCRWG's recommendations and proposed the amendment of the three codes in the Gas Codes Review Consultation Paper which was sent to all stakeholders for comment in December 2008. Submissions closed on 13 February 2009.

In addition, the Director also proposed certain amendments to the Retail and Distribution Codes relating to the code amendment process and reporting requirement.

Section 2 Code amendment process and submissions received

The three codes provide for the Director to amend the codes if he/she reasonably determines that the proposed amendment will better achieve the objectives of the Gas Act. The objectives of the Gas Act are:

- (a) to facilitate the development of a gas supply industry in Tasmania;
- (b) to promote efficiency and competition in the gas supply industry;
- (c) to promote the establishment and maintenance of a safe and efficient system of gas distribution and supply;
- (d) to establish and enforce proper standards of safety, reliability and quality in the gas supply industry;
- (e) to establish and enforce proper safety and technical standards for gas installations and appliances; and
- (f) to protect the interests of consumers of gas.

In the case of the Transfer Code, the code may also be amended if the Director reasonably determines that the proposed amendment will better give effect to the core principles of the Transfer Code.

Before making a determination to amend any of the three codes, the Director must consult the relevant interested parties and consider their submissions. The Gas Codes Review Consultation Paper was circulated amongst stakeholders for comment and the Director has considered all submissions received in making a determination on each of the proposed amendments.

Submissions on the Gas Codes Review Consultation Paper were received from:

- Office of Energy Planning and Conservation
- TRUenergy Pty Ltd
- Powerco Tas Pty Ltd
- Aurora Energy Pty Ltd
- Option One Pty Ltd

All submissions have been published on the website of the Office of the Tasmanian Economic Regulator, www.economicregulator.tas.gov.au.

The three amended codes take effect from 23 March 2009 and can be accessed from the Office of the Tasmanian Economic Regulator's website. Sections 3, 4, 5 and 6 of this Notification of Determination set out the Director's determination on each proposed amendment and section 7 outlines those comments in submissions that were not related to the proposed amendments on which submissions were invited.

Section 3 Determination on amendments to the Gas Customer Transfer and Reconciliation Code

Amendment 1(a)

Clause 3.1(a) of the Code be amended by replacing the term “transfers” with “**customer transfer(s)**”

and

Amendment 1(b)

The Code be amended by inserting the following into section 9.1 Definitions: “**customer transfer**” means the transfer of **MIRN** from one **retailer** to another **retailer**.”

Reason for amendments

The amendment removes confusion over the scope of the Code and more clearly gives effect to the core principle of ensuring an efficient customer transfer process.

Submissions received on Amendments 1(a) and (b)

No submissions received

Director of Gas' Determination

Proceed with amendments 1(a) and 1(b).

Amendment 2

Clause 6.3.1 of the Code be amended to read: “On request by a **retailer**, the **metering data provider** must use **best endeavours** to carry out an **actual meter reading** to enable the transfer of a **customer** to that **retailer** within 48 hours of the request.”

Reason for amendment

The amendment promotes efficiency in the gas supply industry and, in particular, an efficient customer transfer process.

Submissions received on amendment

Powerco Tas made a submission supporting the intent of amendment 2 but suggested that “the wording ‘within 48 hours of request.’ be changed to ‘within two business days of the request.’” This will ensure greater consistency within the code

where “business days” are used, and avoid problematic situations arising from when a request for a special meter read is made, for example late on a Friday afternoon.

Response to submission

The Director agrees with the view of Powerco Tas and its suggested alteration to the proposed amendment.

Director of Gas' Determination

Proceed with amendment 2 with alteration as set out below:

Clause 6.3.1 of the Code be amended to read: “On request by a **retailer**, the **metering data provider** must use **best endeavours** to carry out an **actual meter reading** to enable the transfer of a **customer** to that **retailer** within two **business days** of the request.”

Amendment 3

The Code be amended by inserting the following subclause at the end of clause 3.4.1(c):

“3.4.1(c)(v) The **customer** is liable for a debt owed to the current **retailer** – current **retailer** may object.”

Reason for amendment

“Non-payment of an outstanding debt to the current retailer” is a sound reason to object to a customer transfer and the amendment ensures fairness and equity in the transfer process.

Submissions received

No submissions received.

Director of Gas' Determination

Proceed with amendment 3.

Amendment 4

The term “composite factor” in clause 3.6.3 be replaced by the term “**correction factor**”

Reason for amendment

“Correction factor”, as opposed to “composite factor”, is a simpler and more useful piece of information to be included in the customer transfer notice.

Submissions received

Powerco Tas made a submission supporting the amendment and noting that “as 3.6.3(a)(x) will be contained within the definition of 3.6.3(a)(iii) then clause (x) should be deleted”.

Response to submission

The Director agrees with the view of Powerco Tas that clause (x) is no longer necessary as a result of amendment 4.

Director of Gas’ Determination

Proceed with amendment 4 with alteration as set out below:

The term “composite factor” in clause 3.6.3 be replaced by the term “**correction factor**”

And

The words “altitude and/or **correction** factor (where currently applied);” be deleted from clause 3.6.3(a)(x).

Amendment 5(a)

Clause 4.2.2 be amended by replacing the word “**retailer**” with the words “**metering provider**”

Amendment 5(b)

A new clause 4.2.3 be inserted: “Where the **retailer** estimates that the consumption of **gas** at the new **delivery point** is likely to exceed 10 TJ in the following 12 month period, the **retailer** must advise the **metering provider** as soon as practicable.”

Reasons for amendment

Greater efficiency will be achieved by having the metering provider ensure interval meters are installed where required. The retailer is to be responsible for providing the distributor with estimated consumption if it is related to a new delivery point.

Submissions received

Powerco Tas made a submission supporting the amendment but suggesting that “a time frame be considered for notification to the metering provider such as one business day rather than as soon as practicable”.

Response to submission

The Director notes the benefit gained from including a time frame for the retailer to provide the metering provider with notification that a new delivery point is likely to exceed 10TJ in the following 12 month period. The Director also sees the benefit of allowing some degree of flexibility for the retailer should there be unforeseen circumstances that lead to the one business day turnaround not being practicable.

Director of Gas' Determination

Proceed with amendment 5(a).

Proceed with amendment 5(b) with alteration as set out below:

A new clause 4.2.3 be inserted: “Where the **retailer** estimates that the consumption of **gas** at the new **delivery point** is likely to exceed 10 TJ in the following 12 month period, the **retailer** must advise the **metering provider** within one **business day** or as soon as practicable.”

Amendment 6(a)

Clause 3.6.2(a)(ii) be amended by removing the words “(IP, MP, LP)”

And

Amendment 6(b)

Clause 4.5.2 will be amended by inserting the following subclause 4.5.2(l):

“(l) **distribution system** pressure applicable to the **delivery point**.”

Reason for amendment

A more accurate and simplified information exchange process will be achieved by having the installation database record the actual pressure reading, as opposed to categorising it as low, medium or intermediate.

Submissions received

No submissions received.

Director of Gas' Determination

Proceed with amendments 6(a) and 6(b).

Amendment 7

Clause 5.1.2 be replaced with the following clause:

"Where National Standards Commission pattern approval is not required to be provided by the National Standards Commission, the **metering provider** must conduct tests, cause tests to be conducted or provide evidence of past testing, in respect of the setting, scaling or certifying the accuracy of **meters** and **correctors**, by persons or in a facility, accredited by **NATA**, or by an organisation with whom **NATA** has entered into a formal recognition agreement, to conduct such tests."

Reasons for amendment

NATA has Mutual Recognition Agreements in place with other countries' certifying bodies and by recognising these bodies, retesting of imported meters need not be undertaken.

Submissions received

No submissions received.

Director of Gas' Determination

Proceed with amendment 7.

Amendment 8(a)

Clause 5.2.3(c) be replaced by the following subclause:

"Where the **meter class** includes diaphragm meters, the sampling plan must comply with the requirements of Australian Standard 4647-2005 Domestic Diaphragm Gas Meters."

And

Amendment 8(b)

The following subclause 5.2.3(ca) be inserted:

"Where the **meter class** includes rotary meters, the sampling plan must ensure that the **meter class** is tested at least once a year."

And

Amendment 8(c)

Clause 5.2.3(d)(i) be replaced by the following subclause:

“comply with the requirements of Australian Standard 4647-2005 Domestic Diaphragm Gas Meters, where 5.2.3(c) applies; or”

Reason for amendments

To better enforce proper technical standards for meters, sampling plans for diaphragm meters should comply with the relevant Australian Standard, whereas sampling plans for rotary meters should be developed by the metering provider and approved by the Director, with the only express requirement being yearly testing.

Submissions received

Powerco Tas made a submission in relation to amendment 8(b) that “If Powerco Tas employ the batch methodology sampling plan, Powerco Tas are likely to be sampling almost all rotary meters annually. This would be expensive, inefficient and inconvenient to most customers”.

Response to submission

The Director has had further discussions with Powerco Tas and clarified that the existing clause 5.2.3(b) retains the requirement for a sampling plan for any meter class to be approved by the Director. This requirement allows the concerns of Powerco Tas to be addressed at the point of approving the sampling plan, by ensuring that the approved testing process does not result in each rotary meter being tested each year.

Director of Gas’ Determination

Proceed with amendment 8(a), 8(b) and 8(c).

Amendment 9

Clause 6.2.1(d) be replaced by the following subclause:

“at least every two months from **basic metering installations (allocation groups 5 and 6)** unless otherwise agreed between the **retailer** and the **meter data provider**, or”.

Reason for amendment

A certain level of flexibility is required to facilitate the development of a gas supply industry in Tasmania and the amendment promotes flexibility by opening up the scope for discussion and agreement between meter data providers and retailer.

Submissions received

No submissions received.

Director of Gas' determination

Proceed with amendment 9.

Amendment 10

Replacing subclauses 6.2.1(b) and (c) with the following subclauses:

“(b) at least every two months from *interval metering installations* without telemetry (*allocation group 2*) unless otherwise agreed between the *retailer* and the *meter data provider*;

(c) at least every two months from *basic metering installations (allocation groups 3 and 4)* unless otherwise agreed between the *retailer* and the *meter data provider*.”

Reason for amendment

The development of a gas supply industry in Tasmania is best achieved by relaxing the meter reading requirements set out in clause 6.2.1. The amendment is consistent with the Victorian Code provisions in which a more relaxed time frame for meter reading is prescribed whereby meters must be read at least once every two months.

Submissions received

The Office of Energy Planning and Conservation from the Department of Infrastructure, Energy and Resources, made a submission that it supported amendment 10 on the basis that it is “consistent with Victorian practice as inferred”.

Response to submission

The Director confirms that amendment 10 will align the Tasmanian Code provisions with the respective Victorian Code provisions.

Director of Gas' determination

Proceed with amendment 10.

Amendment 11

Clause 3.3.1(b)(xvii) be replaced by the following clause:

“on-site transfer or ***move in;***”

Reason for amendment

To remove confusion in the interpretation of the Code.

Submissions received

No submissions received.

Director of Gas' determination

Proceed with amendment 11.

Section 4 Determination on amendments to the Gas Distribution Code

Amendment 12(a)

The title of clause 3 will need to be replaced with “Disconnection, connection and reconnection” to more accurately reflect the expanded scope of clause 3.

Amendment 12(b)

The following clause 3.1A, which is modelled on the requirements of the relevant Victorian Code, be inserted into the Code after clause 3.1.

“3.1A Connection Entitlements

(a) A **retailer** on behalf of a **customer**, may request a **distributor** connect to its **distribution system** that **customer’s gas installation**, provided that:

- (i) the **gas installation** at the **supply address** complies with relevant regulations; and
- (ii) the **customer’s retailer** has a contract with the **distributor** for the haulage of **gas**.

(b) A **distributor** must use its best endeavours to connect a **customer’s gas installation**:

- (i) at a **supply address** previously supplied by the **distributor** within one **business day** or within a period agreed with the **retailer** on behalf of the **customer**, or
- (ii) at a new **supply address** on the date agreed with the **retailer** on behalf of the **customer** or, where no date is agreed, within 20 **business days**.

(c) Upon being requested by a **retailer** to do so, a **distributor** must modify the **connection** of a **customer’s gas installation** to its **distribution system** within a reasonable time and on fair and reasonable terms and conditions.

(d) A **distributor** must within 10 **business days** of a request by a **retailer** on behalf of a **customer**, provide the **customer’s retailer**, with information as to the **distributor’s** requirements for any proposed new **gas installation** or proposed changes to an existing **gas installation**, including advice about supply extensions. The information must be provided free of charge and in writing if so requested.

(e) In this clause the phrase:

- “fair and reasonable terms and conditions” means:

- A. terms and conditions agreed between a **distributor** and a **retailer**, provided that the **customer** and **retailer** have received prior written **notice** of the terms and conditions, and have also been provided with a written copy of this clause; or
- B. principles or terms and conditions proposed by the **distributor** and approved by the **Director of Gas**.”

Reasons for amendments

To set timeframes for new connections, which will better protect the interests of gas customers.

Submissions received

Powerco Tas made three submissions in relation to amendment 12:

1. Amendment 12(a) should set a more logical structure for the heading, ie “Connection, Disconnection and Reconnection” and subsequent clauses should follow this sequence.
2. The time frames in clauses 3.1A(b)(i) and (ii) have default time frames that are “based on a mature network (SA & VIC) which is not reflective of the Tasmanian situation” which “will be counterproductive in achieving the objectives of the Gas Act at this stage”. Powerco Tas suggested that the default timelines relating to both sections be deleted.
3. Agreed with the intent of the proposed 3.1A(d) but pointed out that “a cost is associated with the preparation of these requests depending on complexity” and suggested that the last sentence should read “the information should be provided on fair and reasonable terms and conditions”.

Response to submissions

1. The Director notes Powerco Tas’ suggestion which would require the renumbering of existing clauses and have the potential to affect existing working documents of various parties which cross reference to the existing clause numbers in the code. The Director is inclined to keep the existing numbering.
2. The Director notes that proposed 3.1A(b) requires “best endeavours” to be used to meet the time frames set for new connections and that the time frames are default and only come into effect in the absence of an agreement with the retailer on behalf of the customer. The Director considers this provides adequate flexibility for the distributor.
3. The Director notes that clause 3.1A(d) is consistent with equivalent Victorian code provisions and, while imposing some cost on the distributor associated with providing the information, is an appropriate measure to protect the interests of gas consumers.

Director of Gas’ determination

Proceed with amendment 12(a) and 12(b).

Section 5 Determination on amendments to the Gas Retail Code

Amendment 13

Replace the existing clause 8.4(a)(ii) with the following subclause:

“(ii) a telephone number at which the *distributor* may be contacted in an emergency;”

Reason for amendment

To better protect the interests of consumers of gas in an emergency.

Submissions received

No submissions received.

Director of Gas' determination

Proceed with amendment 13.

Section 6 Determination on other Proposed Amendments

Amendment 14(a)

Inserting the following subclause as subclause 1.6(e) in the Retail Code and subclause 1.7(e) of the Distribution Code respectively:

“The **Minister** may amend this Code following a review of the Code if the **Minister** reasonably determines that the proposed amendment will better achieve the objectives of the **Gas Act**.”

And

Amendment 14(b)

Amending clause 1.3 of the Retail Code to read:

“1.3 Director of Gas and Minister bound

This Code binds the **Director of Gas** and subclause 1.6(e) binds the **Minister**.”

And

Amendment 14(c)

Amending clause 1.3 of the Distribution Code to read:

“1.3 Director of Gas and Minister bound

This Code binds the **Director of Gas** and subclause 1.7(e) binds the **Minister**.”

Reason for amendments

To enhance efficiency by allowing the Minister to amend the Gas Distribution Code and the Gas Retail Code codes following a review.

Submissions received

TRUenergy made a submission not supporting the amendment to allow the Minister to amend the Codes on the basis that “Providing a direct role for the Minister would allow regulatory change to be imposed, subject neither to regulatory independence nor legislative scrutiny”.

Response to submissions

The Director notes that under the proposed amendments the Minister will only be permitted to amend the codes following a review of the codes and when satisfied that the code amendments will better achieve the objectives of the Gas Act. During the review of the codes, the normal Ministerial consultation process will ensure the same level of transparency and due process as that which is required of the Director when amending the codes.

Director of Gas' determination

Proceed with amendments 14(a), 14(b) and 14(c).

Amendment 15(a)

Insert the following sub-clause at the end of clause 13 of the Retail Code:

"13.3 Lodgement Date of Annual Return

Each year, a *retailer* must provide to the *Director of Gas*, by 30 September or such other date as the *Director of Gas* nominates, an annual return as required under section 27(2) of the *Gas Act*."

And

Amendment 15(b)

Insert the following sub-clause at the end of clause 6 of the Distribution Code:

"6.3 Lodgement Date of Annual Return

Each year, a *distributor* must provide to the *Director of Gas*, by 30 September or such other date as the *Director of Gas* nominates, an annual return as required under section 27(2) of the *Gas Act*."

Reason for amendments

Neither the *Gas Act* or the codes state the lodgement date for the annual returns and the amendment will clarify this.

Submissions received

Powerco Tas made a submission suggesting that "the lodgement date for Annual Returns be 31 October. This date better aligns with the preparation and auditing of the annual report at the conclusion of each financial year".

Response to submission

The Director notes that the 30 September lodgement date for Annual Returns is consistently applied across the energy industry and that adequate flexibility in this area is catered for by providing that an alternative due date can be agreed to by the Director. Also, the Director notes that no financial information is included in Annual Returns and that this should assist the lodgement date being able to be met by most gas entities.

Director of Gas' determination

Proceed with amendments 15(a) and 15(b)

Amendment 16

Replace the word “*retailer’s*” with the word “*distributor’s*” in clause 7.1 of the Distribution Code.

Reason for amendment

Clause 7.1 of the Distribution Code requires a distributor to develop a compliance plan and a service plan within three months of issue of the “*retailer’s*” licence. The reference should be to within three months of issue of the “*distributor’s*” licence.

Submissions received

No submissions received.

Director of Gas’ determination

Proceed with amendment 16.

Section 7 Response to other comments

The Gas Codes Review Consultation Paper called for submissions from interested parties on the specific proposed code amendments. One entity commented on a “View of Director of Gas” on a particular issue that did not contain a proposed amendment. The issue concerned whether the distributor should be required to publish a schedule of rates for distribution services for large customers over 1TJ consumption per year. Although this issue was not related to a proposed code amendment on which consultation was taking place, the Director sought comment from the distributor.

View of Director of Gas as set out in Consultation Paper

The Director noted in the Consultation Paper that:

The Director of Gas has reviewed the practices in place in other states, namely Victoria and South Australia, and considers the current situation as reasonable given the small number of customers.

As the number of high consumption customers grows, this issue will be reviewed with a view to analysing the impacts on competition in the retail sector if the distributor were required to publish a schedule of rates for distribution services for customers with consumption >1 TJ per annum. At such time it may be appropriate to consider other options available to open up the market. This matter will continue to be monitored.

TRUenergy’s comment

TRUenergy stated that it did not agree with the View of the Director of Gas on the basis that:

“Transparency of network charges is vital in ensuring competitive neutrality is achieved and seen to be achieved, and is a defining feature of other retail contestable jurisdictions. It is unclear why the small number of customers involved, which is the only rationale provided for retaining current arrangements, is relevant. Competition among those existing customers, as well as future connections, will be impaired in the absence of transparent network charges”.

Powerco Tas’ (distributor) comment

In regard to TRUenergy’s comment, the Director sought comment from the distributor which stated that.

It is noted that the matter will be monitored by the Director of Gas and is reviewable sometime in the future should circumstances change.

The current arrangement is for Tas Gas Networks to provide a price on application for customers consuming in excess of 1TJ. This allows for flexible pricing arrangements that best fit the potential gas user. There are numerous factors that impact on the pricing; these include nominated volume, term of agreement, fixed and variable components. Flexibility around these factors enables us to make offers that are tailored to the specific needs of the potential gas customer. This ensures, through the use of Long Form Users Supply Agreements (LFUSA) & Individual Customer Pricing Agreements (ICPA), that offers are made on a competitive basis.

A transparent or rigid schedule of distribution rates would not serve the interests of current or potential gas customers and would not provide a more competitive market.

The provision of a schedule of fixed tariffs would impose an unnecessary and expensive regulatory burden on Tas Gas Networks.

The small number of potential customers in this market segment does not justify this additional regulatory burden.

A list of fixed distribution tariffs would not provide any clearly identifiable advantage to end customers or retailers in the current market.

In fact, a schedule of fixed tariffs would potentially remove some of the current flexibility to tailor charges to the specific needs of individual customers.

The Director of Gas noted both entities' views and will monitor this matter as indicated in the Consultation Paper. If there is evidence that the distributor's current business practices have material adverse impacts on competition in the retail sector, the matter will be addressed accordingly.