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Submission on the Draft Statement of Proposal concerning Gas Production and Storage Facility Outage Information

Gas Industry Company
Submitted by email to consultations@gasindustry.co.nz

PEPANZ Submission: Draft Statement of Proposal concerning Gas Production and Storage Facility Outage Information

Introduction

1. The Petroleum Exploration and Production Association of New Zealand ("PEPANZ") represents private sector companies holding petroleum exploration and mining permits, service companies and individuals working in the upstream petroleum industry.
2. This document constitutes PEPANZ's submission to the Gas Industry Company ("GIC") on its Draft Statement of Proposal concerning Gas Production and Storage Facility Outage Information.¹
3. This submission does not address the specific components of potential regulatory settings as producers have prepared detailed submission on these matters informed by their own operational expertise. Instead, this submission addresses a higher level point about the fundamental options canvassed in the consultation and suggests what we consider to be a more appropriate middle ground.
4. We are genuinely interested in working with the GIC to address and resolve the concerns raised in the discussion document within the framing of an improved Code, and wish for the GIC to be part of these discussions when the Code is reviewed shortly.

Regulatory objective

5. We support the stated regulatory objective which is proposed to be "That arrangements are in place that ensure the effective and timely availability of gas production and storage outage information for all gas and related market participants".
6. Our only comment on this is to note the importance of applying realistic and pragmatic standards when judging information availability. Perfect information is unobtainable in the real world, and this must be acknowledged (at least implicitly in the interpretation of the regulatory objective) in order to avoid the over-identification of alleged information failures which leads to an excessive presumption in favour of intervention and regulation to 'correct' the situation.

¹ <https://www.gasindustry.co.nz/work-programmes/gas-sector-information-disclosure/consultation-2/>

Options for achieving the objective

7. In seeking to achieve that regulatory objective, it is crucial that the full suite of reasonable options are identified. It is in this regard that we are concerned about a core premise of the consultation, whereby the GIC proposes just two distinct options which are:
 - a. either continuation of the status quo of the industry-led Upstream Gas Outage Disclosure Code 2020 ("the Code")² or,
 - b. an entirely regulated solution.
8. This conception of options misses the important and nuanced middle-ground option of an 'improved status quo', which would resemble a continuation of the industry-led Code but with improvements made to it.

Gas Act's principles towards regulation

9. The Gas Act establishes the clear principle that solutions should be industry-led the Code's review process (informed by the published concerns from the GIC) would be a natural point to test whether an improved Code is acceptable, thereby avoiding the need for regulation.

The case for considering a different policy option

10. There are a number of reasons that this 'improved status quo' option should be seriously considered by the GIC:
 - a. PEPANZ and gas producers, supported by the GIC, invested significant time and resources into devising the Upstream Gas Outage Disclosure Code. This was undertaken by producers in good faith on the assumption that it would be given the opportunity to bed in and to be reasonably revised before the GIC would move to consider regulations in its place.
 - b. The scheduled twelve-month review is coming up in June 2021, where the effectiveness of the Code will be thoroughly tested. The concerns raised by the GIC about the Code (such as compliance and enforcement) should be tested through the review process, which we would warmly welcome the GIC to be an integral part of. It is somewhat concerning that this opportunity is effectively being constrained by current consideration to promulgate regulations very early on in the Code's life.
 - c. Given the GIC appears to be only recommending relatively minor amendments, this should first be attempted under an improved version of the Code rather than through regulation.

Long term gas supply

11. Having agreed that information is important and that the sector is willing to look at and support even greater disclosure, it is worth noting that potential information asymmetries are not the only issue in the natural gas market. Supply, deliverability and flexibility is tightening, and ultimately more information disclosure cannot replace molecules of gas.
12. Only the free flow of capital, to enable supply to meet demand, and for demand to underpin development can ensure long-term security of supply. While it may be appealing to seek more information, it is important that the sector and regulators alike focus on the key issue which is ensuring that broad settings and the investment climate are conducive to bringing more natural gas to the market for the benefit of New Zealand.

² We note that page 14 of Sapere's supporting cost-benefit analysis states the counterfactual to regulation is the failure of the voluntary scheme, i.e. the existing Code. Sapere considers it plausible (and indeed appears to assume) that because the Code is not strictly mandatory, signatories will not comply with it. This rather extreme assumption is not grounded in experience of the Code so far, and is too blunt to allow a useful comparison. Sapere's report can be found here: <https://www.gasindustry.co.nz/work-programmes/gas-sector-information-disclosure/consultation-2/document/7156>