Responses to Consultation Questions

Gas Industry Co FY2025 Work Programme and Levy

Submission prepared by: Major Gas Users Inc

Contact: Len Houwers

Question	
Q1:	Do submitters agree with Gas Industry Co's assessment of the strategic context?
	In general, the strategic context describes the current view well. Missing in the strategic context, is the uncertainty of alignment between various policy makers and regulators as to the future of gas in New Zealand. While we share the GIC's view that there is a significant role for gas in balancing the energy trilemma trade-offs, that view seems only partly shared and to varying degrees from other government agencies, and across the political spectrum. We suspect that long term policy ambiguity and volatility towards gas will continue to weigh on the sector across the political cycles and will continue to dampen investment confidence.
Q2:	Do submitters have any comments on the process for developing Gas Industry Co's FY2025 Work Programme and Levy?
	No. We appreciate the opportunities to be involved to shape the GIC work programme.

Q3:	Do you consider there to be any other items that should be included in Gas Industry Co's intended Work Programme for FY2025? If so, please describe the work required and how that work achieves the outcomes sought under the Gas Act and GPS.

Prescribing Reasonable Terms and Conditions for Access to and use of Transmission and Distribution Pipelines, and Gas Act 43ZN (b)(iv) – delivered gas costs and prices are subject to sustained downward pressure.

Review of gas affordability measures and accountabilities.

In light of recent Commerce Commission decisions on allowable revenues for GPBs, we consider that New Zealand regulators lack a strong focus on ensuring energy affordability, including for gas, when considering economic regulation of regulated suppliers. It is not clear to us whether the GIC, as a market regulator, or the Commerce Commission as economic regulator has accountability for ensuring that consumer affordability is given more than a cursory self-defined reference in regulatory decisions. We consider that this topic needs to be addressed as we increasingly look for where the trade-offs should occur in the energy trilemma.

We've expanded on this at the back of this submission and linked it as far as possible with Gas Act and GPS to explain why we think this needs to be prioritised as a topic in the GIC work programme for the coming year.

Gas Distribution Contracts Oversight Scheme

On the basis of a quick assessment in 2020 by the GIC, the consultation paper suggests that it is not necessary, or a priority to review Gas Distribution Contracts, other than for First Gas, on the basis that these haven't changed since the last review done in 2014. We would request that this be reconsidered.

Since 2020, and the decisions made in DPP3 on accelerating allowable revenue for GPBs we've noted not just the scale of price increases being passed to consumers, but also the uneven burden of these increases being allocated by GDBs. We question whether the outcomes would have complied with Pricing Principle 7 (consultation and transparency on pricing change methodology). Some GDB price practices also appear to undermine S43H of the Gas Act (low fixed charge tariff option for domestic consumers).

For example, Vector has more than doubled the fixed cost burden of its connections onto its residential customers since 2020. It is difficult to believe that this as an outcome of an effective consultation process with retailers acting in their gas customer best interests. A further flaw is introduced in oversight in assuming that a retailer might care on behalf of their customers if line charges are increased. Firstly, most retailers would be concerned with relative competitiveness, and if every retailer passes through the same line charge increases, there is no incentive to challenge the GDB on their price methodology. Secondly, retailers sell energy to a business or household. Whether a consumer chooses to

buy gas with electricity, or switches all of their gas to electricity (or LPG), the customer is likely to be retained by the retailer. Again, there is little self interest in challenging pricing methodology.

The fact that a low user residential customer, or a small business in Auckland might now be paying 50% more in line charges since the start of DPP3, also supplies further evidence that energy affordability is not regulated strongly enough in New Zealand[1].

Decommissioning Controls

During the 2022 Gas IM amendment both the Commission and GPBs relied heavily on the narrative of economic stranding risk as a justification for accelerating revenue to all GPBs. Largely avoided in this debate was what obligations GPBs had to continue a service to consumers, or what effective notice periods had to be given of a termination of a connection and transport service. Unlike what was agreed between the Crown and Chorus on transitioning away from the copper network, we do not see what obligations a GPB has towards its customers in the event that it considers that it would be in its own interest to decommission parts of its network or transmission system. Some of our users sit at, or towards, the end of long laterals and rely on these to run their facilities. The lack of clarity on how pipeline decommissioning would play out introduces a further investment risk element to these businesses.

Section 43ZN of the Gas Act appears to give the GIC regulating powers to ensure that gas is delivered to existing customers and under 43ZN (b) (v) that risks relating to security of supply including transport arrangements are properly and efficiently managed by all parties. In light of the CCC and GPBs raising the risk profile of stranding risk it would be useful to have a clear set of guidelines and expectations developed on how decommissioning would be managed to allow consumers to adapt within reasonable timeframes.

Q4:	Do you consider there to be any items that should be excluded from Gas Industry Co's intended Work Programme for FY2025? Please provide reasons for your response.

We don't consider that the levy funding methodology deserves much attention at this point. While noting the 11.35% increase that seems to have given rise to the statement "*unsustainable*" by the GIC, this needs a better context. The 11.35% increase has led to less than 0.2c/GJ increase bringing the wholesale levy total to still less than 2c/GJ. Against wholesale prices approximating $10/GJ and the dramatic increases being seen in gas transmission and distribution charges which are far more material, we don't see spending time on a zero-sum game for GIC levies as being a priority for gas consumers. We'd rather the GIC focuses on overall gas affordability within the total delivered gas price bundle as outlined in our response to Q3.

[1] Based on a fixed line charge of 41.01 c/d and $5.32/GJ for a residential customer on 1 Oct 2021 and 83.08 c/d and $1.62/GJ from 1 Oct 2023 and a low user volume of 12 GJ pa. For small business the relevant numbers are 72 c/d, $3.40/GJ and 116 c/d and $3.51/GJ as published.

Q5:	Gas Industry Co is particularly interested in industry comment on the forecast gas volumes - do stakeholders consider the 150 PJ projection reasonable? If not, what would they consider an appropriate gas volume estimate to be? **NOTE – any submissions provided in response to this question will be treated as confidential and will not be published.**
Q6:	Do you have any comment on the proposed levy rates for FY2025?
	No

Re: Prescribing Reasonable Terms and Conditions for Access to and use of Transmission and Distribution Pipelines

1. On behalf of the Major Gas User Inc., we are requesting that the Gas Industry Company (GIC) investigates and determines what constitutes "reasonable" terms with respect to pricing for use of Transmission and Distribution Pipelines.

2. This request is driven from our, and broader consumer experience, of the significant price shocks being delivered for use of distribution and transmission pipeline services since the start of DPP3. In turn this was driven from the New Zealand Commerce Commission (NZCC) decision in May 2022 to allow accelerated depreciation on pipeline assets in their regulated asset base (RAB).

3. NZCC and the GIC operate under an energy markets regulatory system under the stewardship of MBIE. This system includes a core objective of affordability but lacks any further detail around this principle. This appears to be through lack of any process that might help to characterise its meaning when regulators reach pricing determinations.

4. It is our contention that decisions by the NZCC under Part 4 of the Commerce Act has created a situation for monopoly suppliers to exploit this regulatory gap. This undermines the objectives of the Gas Act (43ZN), as well as the overall energy markets regulatory system. While the NZCC sets allowances for Maximum Allowable Revenue (MAR) for gas pipeline businesses (GPBs), the final pricing decisions by GPBs are not subject to interest or inquiry by the NZCC beyond broad pricing principles. Instead, the GIC as a regulator for the health of the gas sector has been delegated regulation and rule setting powers under a wider set of industry and consumer objectives under the Gas Act.

5. The NZCC sets MAR, but does not obligate, or require gas pipeline businesses (GPBs) to set pricing to recover the MAR. That is a decision for each individual GPB. Unsurprisingly all GPBs are availing themselves of this opportunity resulting in significant price hikes for all consumers including our members. These hikes are certain to continue every year until 2028, with the possibility that they will be extended beyond this period.

6. While the NZCC operates under Part 4 of the Commerce Act to determine MAR, the Gas Act 1992 (Act) Gas governance regulations 43F(2)(c) allows the GIC to propose regulation to prescribe "*reasonable terms and conditions for access to and use of transmission or distribution pipelines*". The Government Policy Statement on Gas Governance (GPS) likewise expects that gas industry participants are able to access transmission and distribution pipelines on reasonable terms and conditions. This is consistent with what we understand the energy market regulation aims to achieve. We do not consider that the current and projected price levels for the use of gas transmission and distribution can be considered reasonable or fair (affordable)

a. The price increases to date under DPP3 are best characterised as price shocks, with Maui Transmission, and VTC MDQ fees increasing by 43% in two years; VTC throughput fees by 141%.

b. GDB increases have likewise seen significant increases. These have been unevenly experienced across different consumer groups (**Error! Reference source not found.**). The brunt of the increases is being taken by consumer groups that are already finding it difficult financially (households, small businesses) and have limited means to address these increases.

Table 1: Price increase since start of DPP3 (2 years) for average user in category

Load Group	Firstgas	GasNet	Powerco	Vector
Low User	31%	23%	24%	51%
Residential	31%	21%	21%	22%
Small Business	33%			47%
Small Commercial	33%	17%	17%	31%
Large Commercial	33%	16%	19%	29%
Industrial	33%	22%	14%	21%

c. The increases are manifestly excessive when compared to recent AER decision on what gas networks would be permitted to charge under essentially the same perceived risks and circumstances of network stranding[2].

d. Unlike the NZCC which has an economic regulation role, the AER balances both economic regulation and market settings for affordability when making its determinations. The AER in finding the balance between "need to act early", and consumer affordability, restricted GPBs to CPI +1.75% over the regulatory period 1 July 2023 – 30 June 2028. The NZCC determination on the other hand permits GPBs to increase revenue from between CPI+3.0% to CPI+10.0% depending on the GPB. The NZCC therefore provides much greater room for GPBs to rapidly increase their prices.

7. In finding a legislative equivalent to base our inquiry on, we are focusing on the Gas Act as having the wider market perspective included in its provisions. Inter alia, the Act under S43F(2)(c) sets out a number of objectives for the GIC when recommending rules or regulations for gas transport arrangements that are included in the GPS: To ensure that gas is delivered to existing and new customers in a safe, efficient, fair, reliable and environmentally sustainable manner. Equally under S43ZN the GIC can regulate for delivered gas costs and prices to be both efficient and subject to

[2] The AER in its decision on Multinet Gas Networks was faced with the same arguments on how Government Climate Change commitments for net zero by 2050, including gas ban connections (an additional restriction not faced in NZ) would affect GPB investment decisions.

sustained downward pressure. Neither of these outcomes appear to be achieved by the NZCC decisions under the Commerce Act.

8. We are not seeking the GIC's support to challenge the NZCC's decisions on GPB economic regulation. This would be inappropriate. Rather we are noting that the NZCC doesn't seek to objectively determine and balance consumer affordability with supplier interest as an express outcome of its legislative mandate. We also note that affordability is an objective of our energy regulatory system, and this purpose seems more closely tied to the provisions of the Gas Act, and by extension falls under the GIC's legislative mandate for investigation.

9. We maintain that suppliers are breaching the provisions of the Gas Act, including the GPS by exploiting the regulatory gap that exists in defining the extent that price increases are not fair or reasonable (for consumers). We therefore request that the GIC determines the decision parameters for fair and reasonable pricing.

10. In support of this request, we include the following evidence:

    a. The quantum of increases being experienced by gas consumers to illustrate the extent of price increases;

    b. The quantum in context of recent AER decisions that struck a between accelerating revenues for GPBs to address economic stranding risk, and consumer affordability;

    c. Why GPB price increases are not fair and unreasonable and how they undermine various objectives of the Act and GPS:

        i. Incentives to invest in gas infrastructure.

        ii. Delivered gas costs and prices are subject to sustained downward pressure.

Problem Statement - Extent of price rises

11. DPP3 started on 1 October 2022. The impact of the Commission's decision to allow accelerated depreciation on all of the GPB RAB and MAR was felt immediately in sharply elevated tariffs. Pricing for 2024 pricing year has also been communicated that allow us to project prices into the second year of a four-year regulatory term.
12. Figure **1** - Figure 6 illustrate how pricing has evolved since the start of DPP2 (1 October 2017 to 30 September 2022) into DPP3 (1 October 2022 to 30 September 2026). This provides the illustrative contrast to underline the unsustainable nature of those increases from DPP3.

13. Note that gas transmission pricing under the VTC (Figure 6) is more difficult to generalise across consumers since it depends on location on the network and quantity MDQ being reserved (as a function of site load factor). We've illustrated with an example of a small industrial in the Auckland Zone. Figures supplied to us from our members suggest a mixed experience since the start of DPP3 on gas transport costs (-7%, +46%, +52%. +69%).

14. For the GDBs we've illustrated these based on a nominal average demand[3]:

[3] Note that while MGUG is primarily a voice for its members we often, in the apparent absence of other consumer advocates for small businesses and households, bring in the wider consumer perspective

a. Low residential user – 12 GJ pa based on Powerco's disclosure on volume vs connection.

b. Residential User/ Small Business (Mass Market) – 25 GJ pa based on historical average for mass market

c. Small Commercial – 250 GJ pa based on approximate GDB disclosures on volume vs connections.

d. Large Commercial – 1700 GJ pa based on approximate GDB disclosures on volume vs connections.

e. Industrial – 20,000 GJ pa based on approximate GDB disclosures on volume vs connections.

15. Vector doesn't have a low user price category, but they have been the most aggressive in moving their residential pricing structure towards a greater portion of fixed cost component which transfers as much gas demand risk as they can to consumers rather than themselves. These harm low and vulnerable users the most in terms of affordability. Consumers in this category have seen a cumulative price increase since DPP2 start of 66%, including fixed charge increase from $149.69 pa to $303.24 pa since DPP3 started (100% increase). The only way for these consumers to materially influence their gas bill is to choose to disconnect (price on application) and fuel switch their appliances to either run on LPG or electricity (a capital cost). Particularly for low-income households, and households that rent where energy incentives are split between land lord and tenant, fuel switching can come with significant upfront costs that in themselves create barriers to switching and lock these consumers into a fuel choice that is no longer affordable for them.

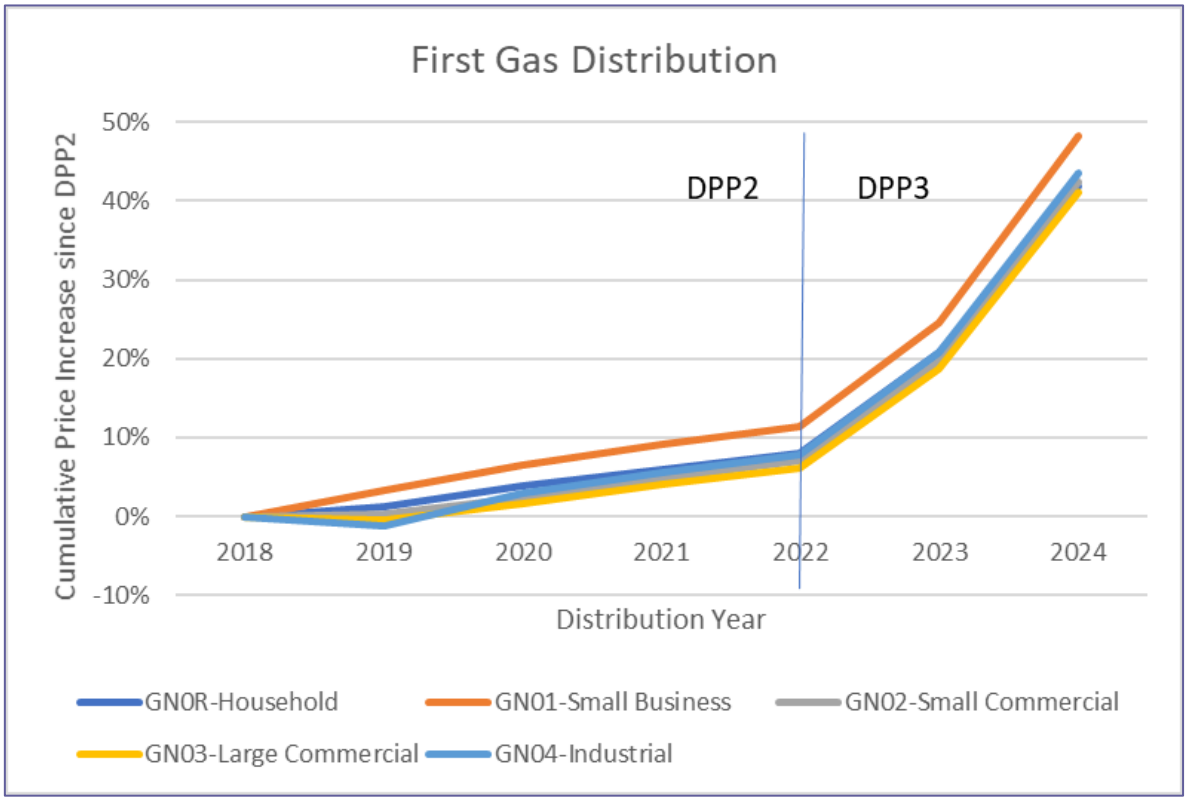


Figure 1: Source- First Gas Pricing Schedule

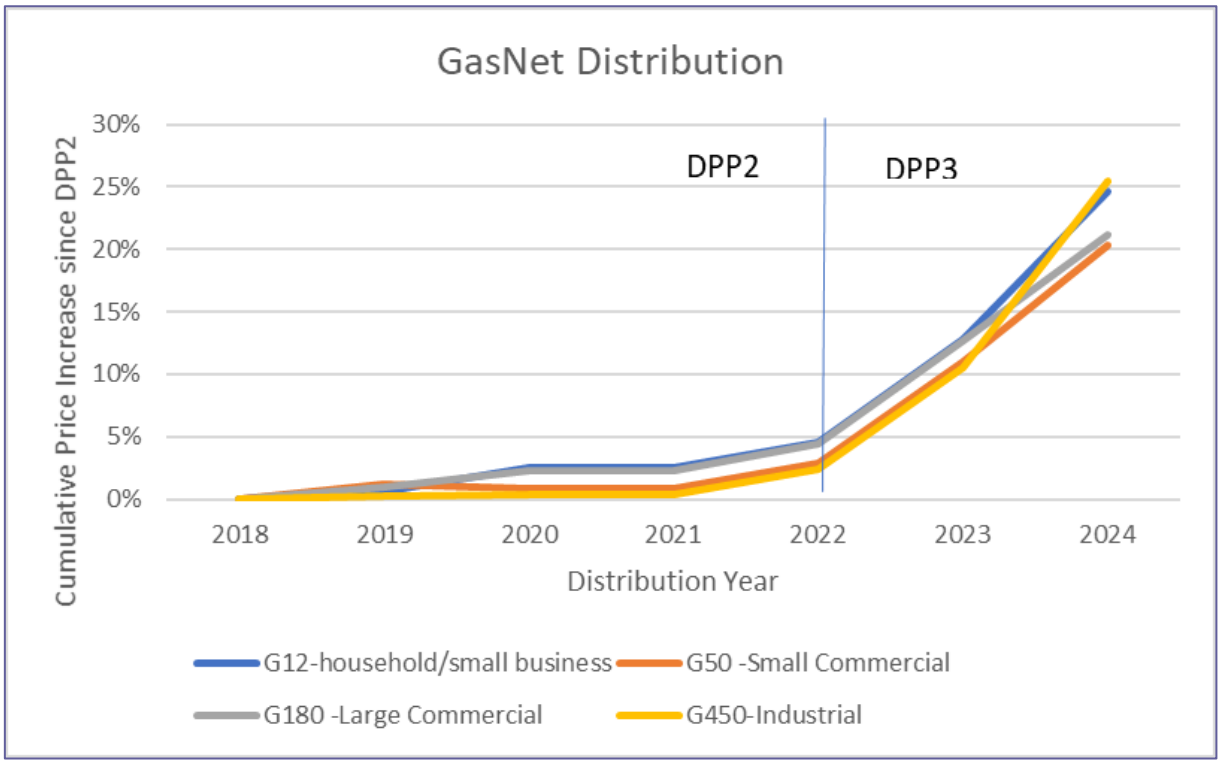


Figure 2: Source: - GasNet Pricing Schedule

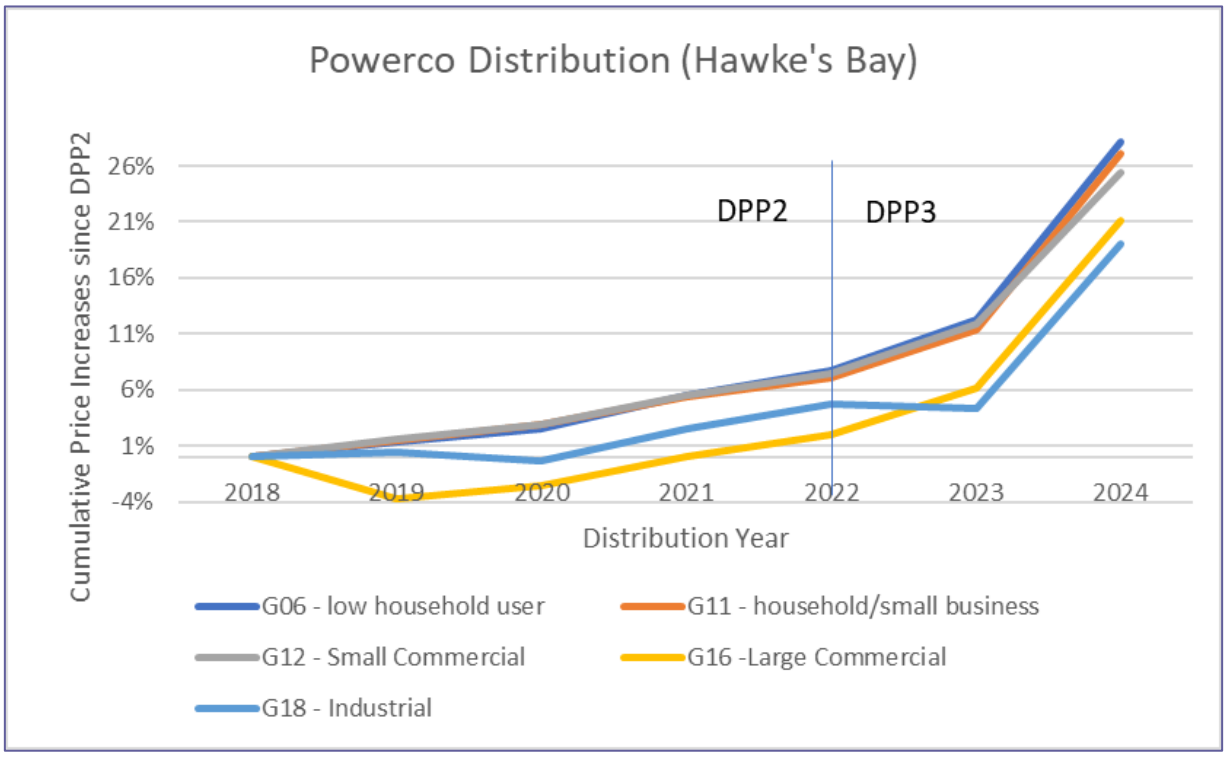


Figure 3: Source - Powerco Gas Pricing Schedule4

[4] Powerco has five pricing regions spread among three pricing zones. We've used Hawke's Bay (that also includes Manawatu & Horowhenua) as an example because it is the first region shown on Powerco's pricing schedule.

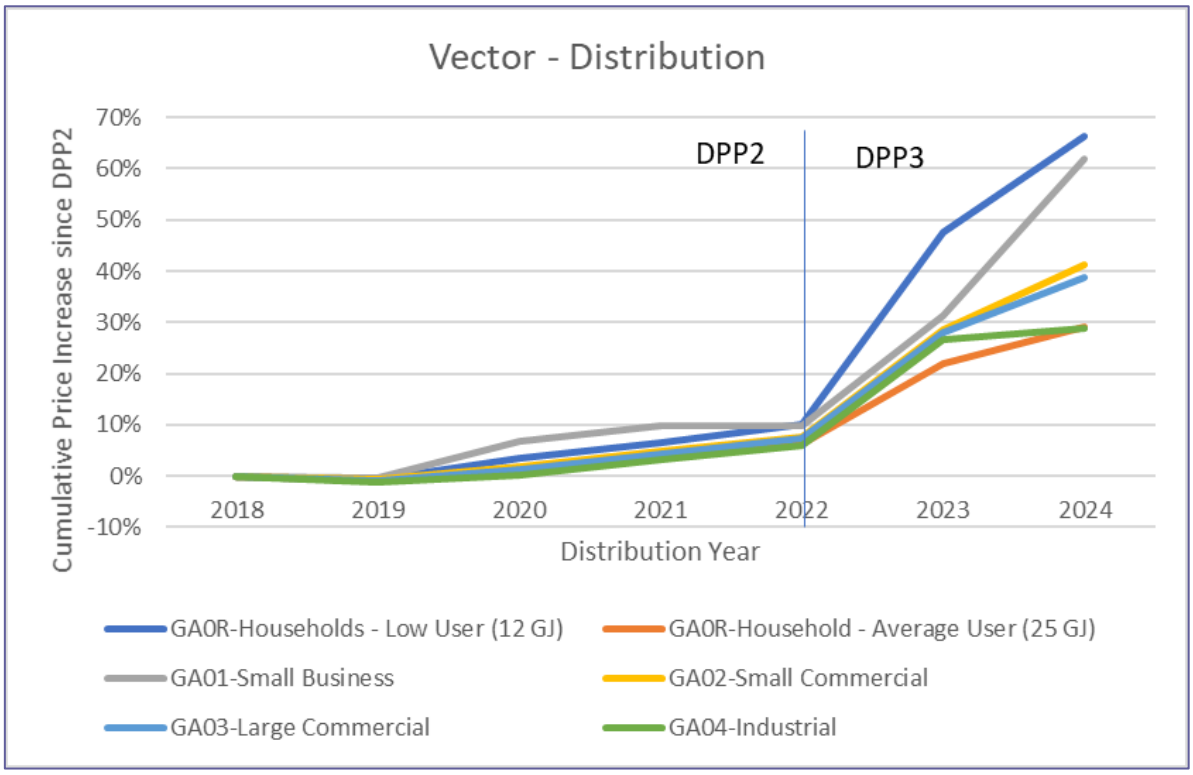


Figure 4: Source - Vector Gas Pricing Schedule5

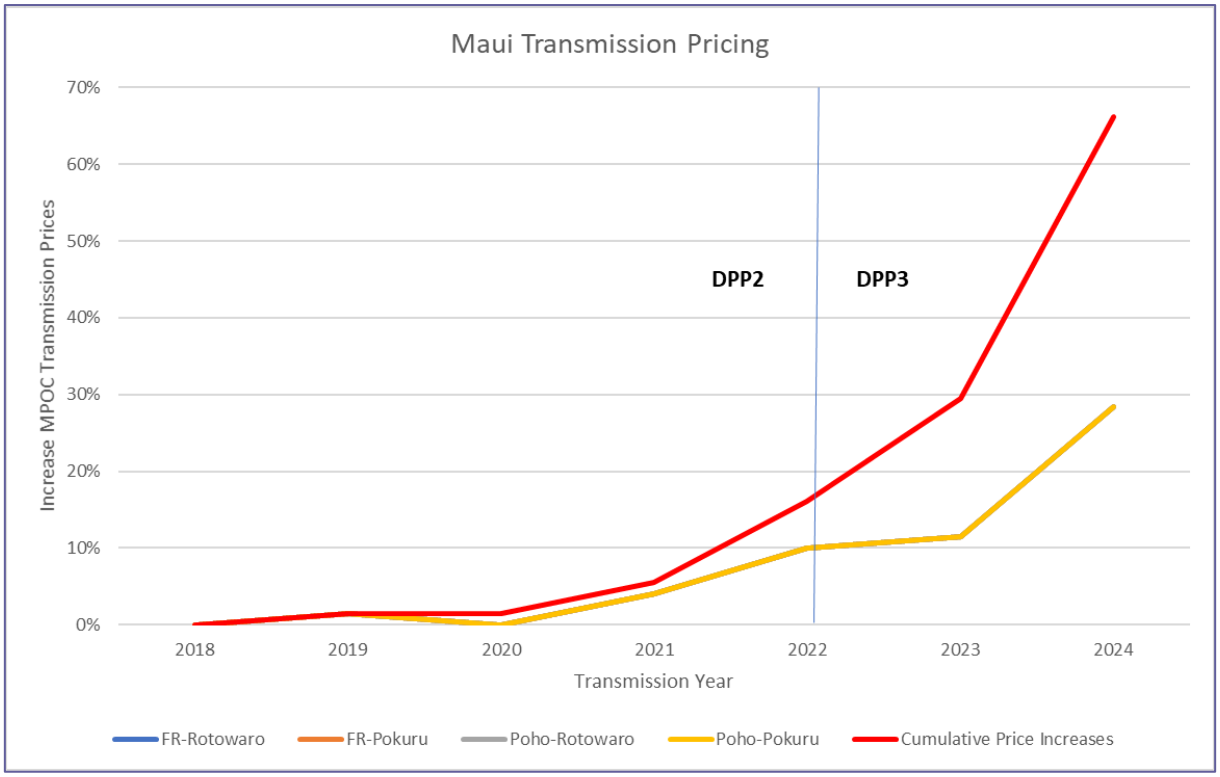


Figure 5: Source – First Gas MPOC Pricing Schedule

[5] Vector doesn't have a low user category. It is included based on Powerco's evidence of average low user demand being approximately 12 GJ pa. Vector has made significant shifts of its tariff structure for residential households so that 90% of its target revenue can be recovered by daily connection charges. (typically for other GDBs, they seek to recover between 52% - 57% through fixed charges)

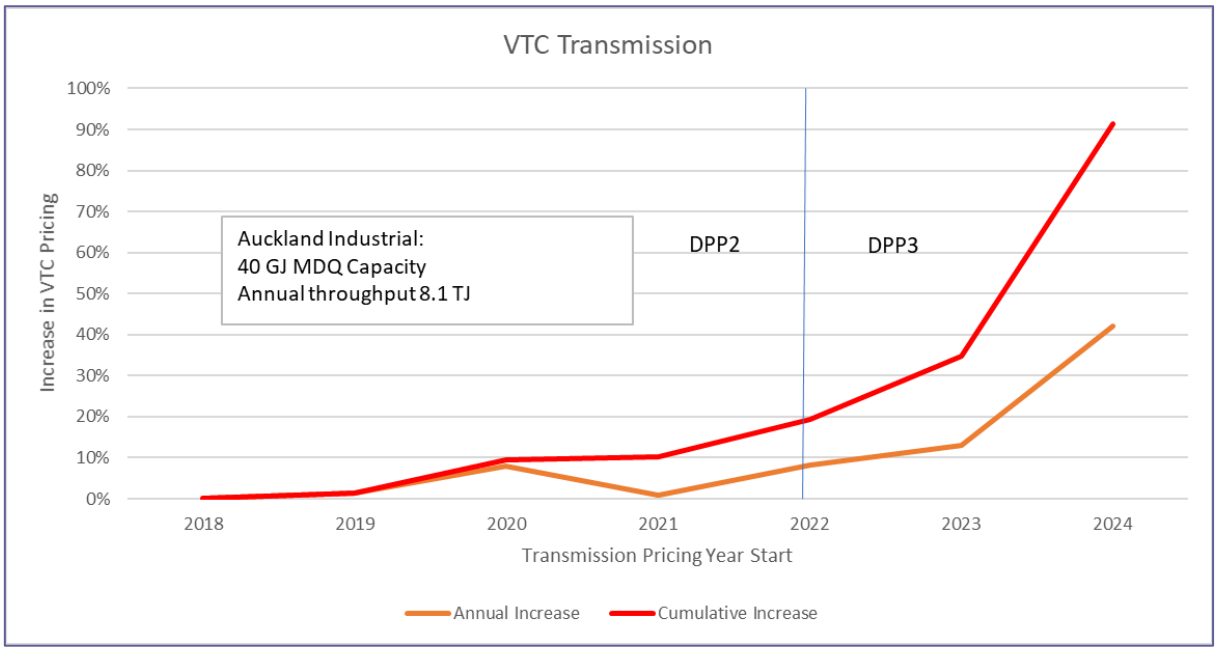


Figure 6: Source -First Gas VTC Pricing Schedule

16. The collective impact on our members on these increased transport charges is estimated at $14 million for the first two years of DPP3, none of which can be passed on to their customers since all our member compete in global competitive markets.

AER – a comparison

17. The illustrated GPB price rises capture a number of other causes, particularly for transmission which operates under a pure revenue cap with washup for CPI and demand forecast. Another way to compare pricing changes is to compare the determination of the Australian Energy Regulator (AER) with the (NZCC).

18. The AER in Australia has a similar role to the NZCC in New Zealand when it comes to setting revenue limits for monopoly gas transport providers. The AER however has a broader encompassing role in that it exists to ensure energy consumers are better off, now and in the future with a focus on ensuring a secure, reliable, and affordable energy future for Australia. The regulatory framework governing gas transmission and distribution networks in Australia is the National Gas Law and Rules (NGL and NGR). The AER work is guided by the National Gas Objective (NGO).

> *The objective of this Law is to promote efficient investment in, and efficient operation and use of, natural gas services for the long-term interests of consumers of natural gas with respect to price, quality, safety, reliability and security of supply of natural gas*.

19. The Commerce Commission is New Zealand's primary competition, fair trading, consumer credit and economic regulatory agency. Their role is in ensuring New Zealand's markets are competitive, consumers are well informed and protected, and sectors with little or no competition are appropriately regulated[6].

20. The NZCC final decision on DPP3 can be contrasted with the recent decision reached by the AER for Multinet revenue for the period 2023-2028. Table 2 demonstrates the greater freedom offered

[6] https://comcom.govt.nz/about-us

to NZ suppliers to raise prices to a much higher ceiling level then the AER considered prudent to protect consumers from excessive price hikes.

Table 2: NZCC revenue cap vs AER revenue cap

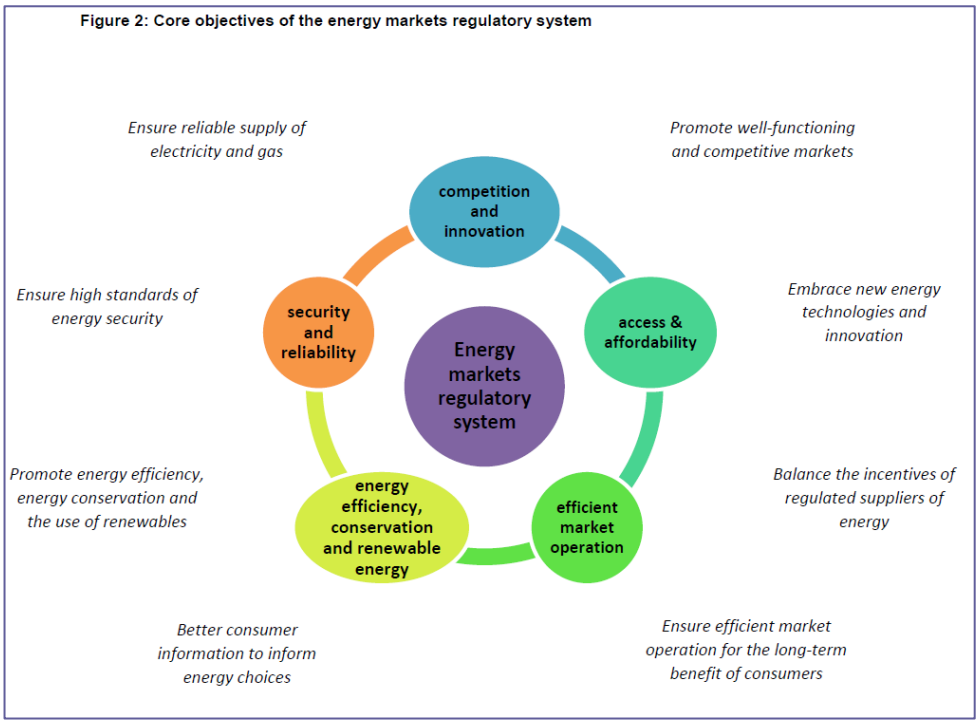
Gas Pipeline Business	Rate of Change (relative to CPI)
Gas Net	CPI + 5.5%
Powerco	CPI + 5.0%
Vector	CPI + 3.0%
First Gas Distribution	CPI + 10.0%
First Gas Transmission	CPI + 8.5%
AER – Multinet Gas Networks	CPI + 1.75%

21. The AER Multinet decision estimates that its decision represents a nominal increase of around 4.7% pa for the 2023-2028 period. This is less than 10% nominal for two years when compared to the substantial increases shown in **Error! Reference source not found.** which range from 21% to 51%.

New Zealand Energy Market Regulatory Charter

22. In New Zealand, energy markets operate under a regulatory charter[7] owned by MBIE, as steward of the energy markets regulatory system. This was developed with input from the Commerce Commission (NZCC), the Electricity Authority (EA), the Gas Industry Company (GIC) and the Energy Efficiency and Conservation Authority (EECA). The overarching aim of the energy markets regulatory system is to promote the long-term interests of consumers and ensure well-functioning markets. The core objectives of the energy markets regulatory system are described in Figure 2

[7] MBIE – August 2018 Regulatory Charter – Energy markets regulatory system



23. Notably this includes "**access and affordability**". Affordability is not expressly addressed by any definition that we could find, but we can look for guidance from other regulatory systems where affordability is a specific objective. In this case we considered how the AER makes this assessment in its determination.

24. The Australian Energy Regulator (AER) assesses consumer affordability in the context of regulating energy prices and services. The AER's primary goal is to ensure that energy prices are reasonable and that consumers can access reliable energy services at affordable rates. The AER's assessment of consumer affordability is an ongoing process that involves extensive data analysis, stakeholder engagement, and regulatory oversight. Its decisions aim to strike a balance between ensuring that energy services are affordable for consumers and providing network businesses with the necessary revenue to maintain a reliable and secure energy supply. Some of the key ways the AER assesses consumer affordability include:

    a. **Price Determination**: The AER reviews and determines the maximum allowable prices for electricity and gas distribution and transmission services. These determinations are made through the Regulatory Reset process, which occurs every five years for electricity and every four years for gas. During this process, the AER assesses the revenue proposals submitted by energy network businesses and evaluates whether the proposed prices are affordable for consumers.

    b. **Consumer Input**: The AER values input from consumers and consumer advocacy groups. It often conducts consultations and seeks feedback from consumers and stakeholders regarding price determinations, proposed tariffs, and the affordability of energy services.

    c. **Consumer Impact Statements**: The AER requires energy network businesses to provide Consumer Impact Statements as part of their regulatory proposals. These statements assess the potential impacts of proposed price changes on consumers, including low-income and vulnerable households.

d. **Benchmarking and Data Analysis**: The AER uses benchmarking and data analysis to assess whether proposed prices are in line with industry standards and whether they are affordable for consumers. Benchmarking allows the AER to compare the performance of different network businesses and assess the reasonableness of their proposed costs.

e. **Demand Forecasts**: The AER considers demand forecasts to estimate how price changes might affect consumer behaviour, energy usage patterns, and affordability. This analysis helps ensure that price changes do not disproportionately burden consumers.

f. **Compliance with Regulatory Guidelines**: The AER applies regulatory guidelines and principles when assessing price proposals. These guidelines include considerations related to the efficient use of resources, cost recovery, and the impact on consumers.

g. **Monitoring and Reporting**: After price determinations are made, the AER monitors the performance of energy network businesses to ensure compliance with the approved pricing arrangements. This includes monitoring prices and service quality to assess ongoing affordability and consumer benefits.

h. **Tariff Design**: The AER also assesses tariff structures to ensure they are equitable and take into account the diverse needs and circumstances of consumers. This may involve the introduction of tariff structures that promote energy efficiency or provide concessions to low-income households.

i. **Energy Market Trends**: The AER considers broader energy market trends and economic conditions when assessing affordability. Factors such as changes in energy generation sources, technological advancements, and government policies can impact the affordability of energy services.

j. **Consumer Vulnerability**: The AER takes into account the potential vulnerability of certain consumer groups, such as low-income households, when assessing affordability. It may implement measures to protect vulnerable consumers from excessive energy costs.

25. Reviewing this list, it seems that New Zealand lacks the necessary consumer guard rails that the AER is obliged to consider when assessing price determination. In particular:

    a. Absence of consumer impact statements that regulated service providers are obliged to provide as part of their proposals.

    b. Absence of demand forecast to estimate how price changes might affect consumer behaviour, energy usage patterns, and affordability.

    c. Lack of oversight on tariff design to ensure they are equitable and take into account the diverse needs and circumstances of consumers, including low-income households.

    d. Assessing and understanding consumer vulnerability.

26. The absence of these parameters doesn't imply that they aren't a necessary part of New Zealand's energy market regulation. Rather it identifies the regulatory gap that we are asking the GIC to investigate.

27. We know that the NZCC would argue that it does consider consumer affordability in its decisions. For example, in their DPP3 decision they noted that they placed a cap of 10% (real) on MAR increases[8]. It claims that this makes if affordable, but doesn't test this in the same way that the AER would (see https://www.aer.gov.au/system/files/Annual%20Retail%20Market%20Report%202021-22%20-%2030%20November%202022_3.pdf)

28. It may be argued that affordability only applies to contestable[9], rather than monopoly markets, but we note two points:

    a. Energy retail market pricing includes a significant component of monopoly revenue (gas transport)[10].

    b. The AER openly considers affordability in terms of price determination of regulated networks, not just for contestable markets[11].

    > *'… regulated depreciation or risk compensation cannot be adjusted without constraint to guarantee cost recovery for the regulated businesses. [The AER] must have regard to consumers' interest in having affordable and stable or reasonably predictable gas access prices to encourage their use of the gas infrastructure. Having said that, it is fair to note that regulated businesses also have an interest to maintain price affordability to avoid further decline in gas customer numbers.'*

Impact on Objectives of GPS

29. The GPS sets out other objectives for the GIC when recommending rules or regulation for transmission and distribution of gas

GPS – Section 11	**How prices fail to satisfy GPS**
The facilitation and promotion of the ongoing supply of gas meets New Zealand's energy needs, by providing access to essential infrastructure and competitive market arrangements	The NZCC has argued that the outcomes it seeks are restricted to meeting the s52A purpose statement sub parts on competitive market outcomes and that it doesn't include meeting broader competitive market outcomes. The NZCC therefore has taken a narrower view on whether prices are consistent with what would be seen in competitive markets
Barriers to competition in the gas industry are minimised.	The uneven tariff structure (particularly for households) and accelerated pricing relative to EDBs is raising competitive barriers for gas relative to LPG and electricity.
Incentives for investment in gas processing facilities, transmission and distribution, energy efficiency and demand-side management are maintained or enhanced;	GPBs and consumers would benefit from incentives to invest in repurposed pipelines to ensure a viable gas industry long term. Instead, high prices on use of existing assets on assumption of economic stranding risk is

[8] NZCC – 31 May 2022 Default price-quality paths for gas pipeline businesses from 1 October 2022 Final Reasons Paper (p15)

[9] Ie at the level of competing retailers

[10] Transmission and network charges were estimated to be around 36% of total delivered gas cost to average (25 GJ pa) households in 2018

[11] AER – June 2023 Final decision Multinet Gas Networks Gas distribution access arrangement 1 July 2023 to 30 June 2028

	removing pressure on GPB's to invest in avoiding economic stranding.
Delivered gas costs and prices are subject to sustained downward pressure	Price increases demonstrate the opposite. Delivered gas costs and prices are subject to sustained *upward* pressure
Risks relating to security of supply, including transport arrangements, are properly and efficiently managed by all parties;	Sustained upward pressure on prices incentivise loss of further demand on the system, which in turn disincentivises investment in security of gas supply

Price rises undermining investment confidence

30. In 30 September 2021 the GIC released its report on Gas Market Settings Investigation. This report was produced at the request of the Minister. This report highlighted the delicate balance that exists in the industry between supply and demand. Both upstream and the downstream take investment signals from each other. A particularly important signal is demand levels. In particular, confidence to continue to invest across the sector was seen as critical to overall supply security and to least cost energy prices overall.
31. Price shocks of the magnitude allowed by the NZCC further undermine consumer and producer confidence in the gas sector.