

10th December 2010

Gas Industry Company
PO Box 10-646
WELLINGTON 6143

Dear Sir/Madam

Submission: Retail Competition and Transmission Capacity: Statement of Proposal

1. This submission is being made by Hale and Twomey and Aretê Consulting Ltd on behalf of the following Major Gas Users:
 - a) Fonterra Cooperative Ltd
 - b) Carter Holt Harvey Ltd
 - c) New Zealand Steel Ltd
 - d) New Zealand Refining Company Ltd
 - e) Ballance Agri-Nutrients Ltd
2. As substantial consumers of gas, these users are either directly or potentially impacted by inefficient capacity allocation arrangements on the Vector transmission system, and the subsequent deterioration of competition, particularly on the Vector North System.
3. In our view regulation is appropriate and “Capacity Follows End User” is the best short term option to restore competition.
4. We acknowledge the Statement of Proposal (SoP) is specifically intended to address the immediate deterioration in retail competition. However, we reiterate our view that momentum on the overall Transmission Capacity Work Programme (Longer Term work on Vector’s access arrangements, and physical constraints) should not be lost, and should continue to proceed with an equal sense of urgency. In terms of this ongoing work, we do not envisage that the current SoP should influence the final outcome of the Longer Term work under the Transmission Pipeline Capacity work programme and it is on that basis that we give our support to the proposed short term solution.
5. As a group, the general approach taken in this submission is to confirm that competition is negatively affected by current capacity allocation arrangements on constrained pipelines, including the Vector North System, and to focus on ameliorating the worst aspects of the Transmission System rules that prevent effective competition from occurring in the gas market.

Yours sincerely,

Josh Adams and Len Houwers

QUESTION	COMMENT
<p>Q1 Do you agree with our description of the retail competition problem?</p>	<p>We agree with most of the description provided in so much as the description gives a good overview of the short term issues. However, we are very clear in our own minds that there is an anti-competition issue that needs to be urgently resolved. The ability to restrict, and the practice of restricting competitor access to key gas transport infrastructure no longer needed to supply an existing user should be seen as undermining the principles of open access and a direct contradiction of the objectives of the Gas Act and GPS. Direct examples/proof of this situation has often been hampered by the confidentiality requirements in supplier/retailer contracts. We refer GIC/MED to the individual submissions made by the users in our group and encourage them to discuss their experiences directly.</p>
<p>Q2 Do you agree with the economic analysis?</p>	<p>The economic theory and analysis look reasonable.</p>
<p>Q3 Do you agree with the proposed regulatory objective?</p>	<p>We agree with the proposed regulatory objective and believe that the existing arrangement falls short of Gas Act, GPS objectives, and we concur with GIC that aspects of the current capacity allocation arrangement may be of interest to the Commerce Commission.</p>
<p>Q4 Do you consider that the evaluation criteria are appropriate for evaluating the options?</p>	<p>Agree with the evaluation criteria.</p>
<p>Q5 Do you have any comments on the evaluation of options?</p>	<p>The evaluation accurately supports the preferred option.</p>
<p>Q6 Do you agree that Gas Industry Co has, through the evaluation of options, correctly identified the 'Capacity Follows End User' as the preferred option?</p>	<p>Agree.</p>

QUESTION	COMMENT
<p>Q7 Do you have any comments on the details of the proposal?</p>	<p>The underlying principles look reasonable, although the GIC should seek to ensure that any disputes between a TSO and retailers do not prevent timely transfer of capacity. “Go Live” at the end of Q2 2011 appears conservative. We would prefer an earlier Go Live date.</p> <p>Funding is of key interest to users, however until the real cost to implement and administer the regulations is known, and in what way those costs may be passed through to users, we are not in a position to comment.</p> <p>We also believe that the expected level of uptake/utilisation in the proposed regime may be understated. There may be a greater level of churn as competition returns to the market. Further, the 10TJ threshold may leave a gap between small and larger industrial users. It could be worth investigating whether the threshold could be lowered for smaller industrial users with installed TOU meters.</p>
<p>Q8 Do you agree with the next steps?</p>	<p>Agree. However we would expect that incumbent retailers with existing transmission rights are unlikely to accept regulation freely, citing lack of evidence for a problem, inadequate cost benefit analysis and so forth. Our view is that these arguments are self serving and that the current evidence is compelling enough to demonstrate that the objectives of the Gas Act and GPS are being hampered by the current access arrangements that restrict competition on constrained pipelines. As stressed throughout this submission, users are “price takers” and cannot take advantage of competitive prices right now. This competitive imbalance needs to be fixed as soon as practicable.</p> <p>We re-emphasise the importance and need for urgency regarding a long term solution to mitigate future capacity constraints.</p>