



19 October 2012

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By email: ian.wilson@gasindustry.co.nz

Dear Ian

Draft Recommendation: VTC CR Appeal 31 July 2012

Contact Energy welcomes the opportunity to provide a submission on the GIC's draft recommendation in respect to the VTC CR Appeal of 31 July 2012 (**Change Request**).

Contact does not support the draft recommendation provided by the GIC in relation to disputed invoices. The rationale provided by Vector for the amendment is unconvincing and Contact is concerned that it is relied upon by the GIC without sufficient evidence to support the change. On page 11 there is reference to Vector's 'belief' that the absence of a requirement to pay a portion of any disputed amount is the reason there are delays in payment. The GIC note that they agree that paying a portion of a disputed amount should reduce the incentive to delay settlement. With respect, Contact believes that more rigor should be applied to reaching the conclusion.

The GIC itself points to the fact in its paper that a party to a dispute may refer the dispute to an independent expert for a binding resolution if the dispute has not been resolved in a timely manner. Therefore there is no excuse for dispute settlements to be held out.

Contact believes that on the facts presented the GIC should decline the change request and recommend instead that where Vector believes there are timing issues with settling disputes that these are best addressed through amendments to the dispute process section of the VTC.

Contact makes further supporting comments on its submission in the sections below.

Gas Act and GPS objectives

The GIC in section 2 sets out the various objectives and outcomes under the Gas Act and GPS that the GIC must have regard to when making recommendations on VTC appeals. Contact believes that in most cases there is no impact on the objectives or outcomes from the proposed

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change request. And we believe that the current regime is in line with the stated objectives/outcomes. In cases where we do see a potential impact that impact is likely to increase inefficiencies and/or pricing due to shippers having to incorporate additional systems and administration.

Under the GIC's evaluation of the proposal paragraph 3.2 states that Vector's rationale in proposing the change "is to encourage both the prompt payment of invoices and better dispute practices". These practices have been in place in both TSO codes and in various gas industry contracts for many years. The payment of invoices when in dispute is either payment in full and dispute or dispute with payment of the undisputed amount. There has never been any half way position.

The GIC states that it considers that the objectives most relevant to the proposed changes are:

- a. the Gas Act provision that 'risks relating to security of supply, including transport arrangements, are properly and efficiently managed by all parties; and
- b. that gas governance arrangements are supported by appropriate compliance and dispute resolution processes.

In respect to a. the GIC states that the change allows all parties including Vector to dispute invoices and that this is as should be because the process should permit either party to a transaction to dispute invoice amounts. Contact agrees with this logic. However the point made by shippers is that Vector is not treated the same as shippers i.e. Vector does not have to pay half the disputed amount of the invoice. This is defended by the GIC as not being substantial enough to object because a party to a dispute may refer the dispute to an independent expert for a binding resolution if the dispute has not been resolved in a timely manner. Again Contact agrees with this argument and does not see why this should not also apply to shippers.

In respect to b. there is clearly a process set out in the VTC to follow. Vector has provided evidence that in some instances disputes have been drawn out over several years. Contact agrees that this is inefficient but does not agree that requiring shippers to pay half the disputed portion of an invoice will change this. It is clearly a lack of adherence to the codified dispute process. Vector has mechanisms within its control under this process to ensure disputes are dealt with in a timely matter. Contact suggests that if it did this then that in itself would be a deterrent to any shipper using the process as a way of avoiding payment. Furthermore if Vector believes this is truly an issue of resolving disputes more quickly, it should address the dispute process, not interfere with payment processes.

Evidence

Vector was asked to provide further information by the GIC including any evidential basis for the proposed change. Vector provided a list of disputes in respect of balancing and transmission.

In respect to the former most occurred in 2009 when shippers were still adjusting to the new balancing regime. There were a further 3 disputes in 2010 and one in 2011 (note the most recent dispute was over a year ago). The last two disputes being found in favour of the shipper. In respect to transmission disputes again these have predominantly been in 2009 (20 cases). The last dispute was over 2 years ago.

Contact also notes that the average disputed amount is \$70k which would indicate that the argument that the "costs can be out of proportion to the amount in dispute, which in some cases has been less than \$1000" is also invalid. The 'evidence' provided by Vector does not support the case for change.

Contact sees no evidence that shippers are trying to frustrate the dispute process and nor have Vector provided such evidence. Rather than shippers being indifferent we are very much concerned that shippers will incur more administrative burden to handle the proposed change which will be both inefficient and unwarranted.

Yours sincerely



Sharon Wray
Fuels Trading