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17 October 2012

Ian Dempster  
Gas Industry Company  
95 Customhouse Quay  
WELLINGTON

Submitted via: Gas Industry Company website

Dear Ian

## Draft Recommendation: VTC CR Appeal 31 July 2012

Genesis Power Limited, trading as Genesis Energy, welcomes the opportunity to provide a submission to the Gas Industry Company ("the GIC") on its draft recommendation on the "VTC CR Appeal 31 July 2012".

Genesis Energy appreciates the GIC's efforts in seeking to address the concerns raised by Shippers on Vector's change request. While we accept that there may be issues with the current dispute procedures, we continue to hold the view that the design of the changes Vector has put forward in respect to disputed invoices is problematic. We recommend that the GIC not support the change request. This will allow Vector and Shippers a second opportunity to agree to a more acceptable solution.

### **Current dispute procedures – reasons for issues still unclear**

The summary of disputes that Vector has provided to the GIC does, in our view, demonstrate the potential for disputes to carry on unresolved for prolonged periods of time. While we consider that this type of behaviour is not likely to be reflective of all Shippers, we agree with the GIC that ultimately the cost and expense involved in prolonging these disputes puts an unfair and inefficient cost burden on all parties. We agree that changes to the existing dispute procedures may be warranted to address this problem.

However, without further detail of these disputes, it remains unclear whether Vector's proposal for part payments is the right solution to address this problem.

We note that the GIC has invited Shippers to provide their views on the factors that are influencing the time it takes to resolve disputed invoices. We consider that these further insights from Shippers could be useful in developing a more effective solution.

### **Vector's proposed amendment is not symmetrical**

We consider that the requirements for disputing invoices should be the same for both Vector and Shippers. As the GIC acknowledges Vector's proposed changes to the VTC are not symmetrical. As a result, the dispute resolution process has the potential to operate in a way that is one-sided. The GIC has suggested that this may not be an issue because Vector is only likely to dispute invoices in circumstances that are reasonable or mechanical. However, there is nothing in the VTC that limits Vector in this way. In order for the dispute resolution procedures to be fair and effective they should contemplate that either party involved may attempt to frustrate the process.

At the very least, we consider it is reasonable to expect Vector not to delay payment of any portion of an invoice that is not in-dispute (section 16.17 (a) VTC). This would require a relatively minor variation to the wording of Vector's suggested amendment. We can see no reason why Vector should not be subject to this requirement.

### **Suggested way forward**

As outlined above, there are remaining issues with the design of Vector's suggested amendment and also question-marks around whether it is the best way to achieve the outcome sought.

The GIC has advised that it does not have the power under the existing terms of the VTC and Memorandum of Understanding to recommend changes or consider variations to the change request. The GIC must either approve or decline the change request as it is presented. This makes it difficult for the parties involved to reach a constructive agreement. If the GIC approves this change request, then, Shippers will be left to address the shortcomings identified through subsequent change requests. This, we consider, would be a very timely and resource intensive means to address the differing views on this matter. We consider it would be more constructive for the GIC not to support the change request. This will allow Shippers and Vector a second opportunity to discuss and agree on a more acceptable solution.

If you would like to discuss any of these matters further, please contact me on 04  
475 6357

Yours sincerely

A handwritten signature in black ink that reads "Lizzie Wesley-Smith". The signature is written in a cursive, flowing style.

Lizzie Wesley-Smith  
Regulatory Advisor

## Appendix A: Responses to Consultation Questions

QUESTION	COMMENT
<p>Q1: Do you agree with Gas Industry Co's evaluation of this proposed change?</p>	<p>We support the GIC's evaluation of this proposed change - to remove the option of cash bonds as prudential security.</p>
<p>Q2: The additional information provided by Vector shows that there are a number of disputes that took a long time to resolve. Do you have any comments on the time it takes to resolve disputed invoices? What factors are you aware of that influence the time it takes to resolve disputed invoices?</p>	<p>Genesis Energy appreciates the GIC obtaining this additional information. Genesis Energy does not have a history of disputes with Vector. We are, therefore, not in position to provide further comments on this matter.</p> <p>We consider that these are important questions for the GIC to ask and should form the basis of further discussions between Vector and Shippers as a way of identifying the exact nature of the issues with the current procedures. This may assist Shippers and Vector agreeing to what may be a more suitable solution.</p>
<p>Q3: Do you agree that the proposed change does not need to be symmetrical because: (a) in any case, a dispute may be settled by an independent expert and (b) disputes raised by Vector are likely to be mechanical in nature?</p>	<p>No. Please see cover letter.</p>

QUESTION	COMMENT
<p>Q4: Do you agree with Gas Industry Co's evaluation of this proposed change? Do you have any evidence to suggest that Vector's claims are incorrect?</p>	<p>No, as per our cover letter we consider it remains unclear whether this change will address the issues with the current resolution process.</p> <p>Without detail of the parties involved we have no evidence or reason to believe that Vectors claims in relation to Shippers holding up a dispute process are incorrect.</p>
<p>Q5: Do you agree with Gas Industry Co's evaluation of this proposed change?</p>	<p>Yes. We support the GIC's evaluation of this proposed change to the URL reference under the definition of 'OATIS'.</p>