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Dear Ian

## **Gas processing facilities – owner disclosure proposal**

Genesis Power Limited, trading as Genesis Energy, welcomes the opportunity to provide comments to the Gas Industry Company on its statement of proposal 'Information disclosure by owners of gas processing facilities' dated September 2007. Genesis Energy has reviewed the statement of proposal and offers the following comments.

### **Introduction**

Genesis Energy's view is that the primary purpose of the proposed information disclosure requirement should be viewed as gathering an information base with which to inform future policy decisions. A secondary, or collateral, use for the gathered information is to aid parties seeking facility access.

This view arises from the conclusion of the Gas Industry Company's initial analysis, namely that:

"Neither the quantitative or qualitative analysis undertaken suggests any substantive policy intervention is warranted."<sup>1</sup>

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<sup>1</sup> Gas Industry Company, *Discussion paper: access to gas processing facilities*, August 2006, para 11.2.

Genesis Energy accepts that failure to achieve pan-industry support for voluntary disclosure arrangements has made a mandatory approach a practical means of obtaining the desired information. Genesis Energy was willing to participate in the disclosure regime voluntarily, and does not object to the proposed rules-based approach.

### **Sunset clause**

Given that no substantial economic inefficiencies have been identified in the gas processing market, Genesis Energy suggests that it would be appropriate to include a 'sunset clause' in the proposed rules.

A sunset clause would remove the rule from the books after a pre-determined period of time, unless action is taken to amend the rules. Genesis Energy suggests that an appropriate period of time would be three to four years (that is, the rule would expire in 2011 – 2012). If the information base developed by the disclosure regime shows that there is a case for further regulatory intervention (including continuation of a disclosure regime), then this could be addressed at that time.

Inclusion of a sunset clause would have the effect of removing the presumption of indefinite regulation. This is an appropriate approach where the case of intervention is weak in the first place, or where it is unclear that the conditions giving rise to the need for regulation will persist indefinitely<sup>2</sup>.

### **Review of disclosure rules**

Genesis Energy has engaged a public law expert to review the draft disclosure rules and will advise the Gas Industry Company should any issues arise from that review.

If you would like to discuss any of these matters further, please contact me on 04 495 6357.

Yours sincerely



John A Carnegie  
Regulatory Affairs Manager  
Genesis Energy

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<sup>2</sup> Genesis Energy also notes that inclusion of a sunset clause is consistent with the Regulatory Responsibility Bill currently before the Commerce Select Committee. Genesis Energy understands from recent media coverage that the Bill has some in-principle cross-party support.