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Dear Ian

## Wholesale Market Design

Genesis Power Limited trading as Genesis Energy welcomes the opportunity to provide comments to the Gas Industry Company on the discussion paper entitled 'Wholesale market Design' dated September 2006. Genesis Energy has reviewed the discussion paper and is pleased to have the opportunity to respond to the issues raised in it.

Genesis Energy is generally supportive of the approach taken in the discussion paper and wishes to congratulate the Gas Industry Company in the work that it has done. The discussion paper methodically addressed the issues within a rigorous analytical framework then moves to an even-handed assessment of the mechanisms by which the preferred options could be implemented.

Genesis Energy's responses to the specific consultation questions, including its comments on those areas on which Genesis Energy would like further consideration, are attached to this letter as Appendix One.

As a general comment, Genesis Energy wishes to note that the basis on which it has commented on the standard contract attached to the discussion paper is that its use is limited to bilateral deals between industry participants during the next 12 – 18 months *prior* to a matching platform being developed and is not the one which the Gas Industry Company intends to subsequently develop and use on a matching platform.

If this is not the case - namely that the standard contract attached to the discussion paper is the one which the Gas Industry Company intends to be used on a matching platform – it will not affect our responses to the questions regarding the standard contract in the Appendix attached. However, Genesis Energy will have a number of additional comments (relating to the structure of the contract generally and specific provisions) that it will wish to raise at the forth-coming workshop as Genesis Energy's view is that a more tailored standard contract will need to be developed for use on the matching platform.

Genesis Energy would be happy to discuss any aspect of this submission with the Gas Industry Company should it wish to do so. Please do not hesitate to contact me on [john.carnegie@genesisenergy.co.nz](mailto:john.carnegie@genesisenergy.co.nz) or 021 375 061.

Yours sincerely

A handwritten signature in black ink, appearing to read 'J Carnegie'.

John A Carnegie  
Regulatory Affairs Manager  
Genesis Energy

## Appendix One: Responses to Specific Consultation Questions

QUESTIONS	COMMENTS
<p><b>Q1:</b> Do you agree with regulatory objective for the component of the Wholesale Market work stream? If not, what objective should the Gas Industry Co be considering?</p>	<p>Yes.</p>
<p><b>Q2:</b> Do you agree with the general approach to assessing the different options using both quantitative and qualitative criteria? If not, what alternative approach, that also complies with the Gas Act, would you suggest?</p>	<p>Yes.</p>
<p><b>Q3:</b> Are there other time horizons that should be considered for the trading of gas? If so, what are those time horizons?</p>	<p>The split based on contracts with durations of less than and greater than one year seems appropriate. It does not, for example, hinder parties if they so desire to use the standard contract as the basis for contracts of a longer term.</p>
<p><b>Q4:</b> Are there any other reasonably practicable alternatives for longer term trading of gas that should be considered and if so, what are they?</p>	<p>No.</p>
<p><b>Q5:</b> Are you satisfied with this evaluation of options for longer term trading of gas, and if not, what aspects would you alter and why?</p>	<p>Yes.</p>
<p><b>Q6:</b> Do you agree that there is no case for formalising arrangements for longer term trading of gas to improve transactional efficiency? If not, what alternative do you prefer and why?</p>	<p>Yes. Longer term gas contracts are generally based around the unique circumstances of a gas field development or the requirements of a gas consumer to support an investment decision on new plant and/or the operational requirements of new or existing plant or retail market loads and there are different relationships between buyer and seller across different contracts (for example gas supply agreements, farm-in arrangements etc). It is therefore not appropriate to formalise such long term arrangements.</p>

QUESTIONS	COMMENTS
Q7: Are there any other options that should be considered for short term gas trading, and if so, what are the options?	The options considered cover the normal range of trading options applying in commodity markets.
Q8: Are you satisfied with the qualitative assessment of short term trading options? If not, what aspects would you change and why?	Yes.
Q9: Do you agree that the standard contract should allow for both types of approaches? If not, what would you prefer and why?	<p>The standard contract should allow for either:</p> <ol style="list-style-type: none"> <li>1. Fixed daily quantities; or</li> <li>2. Maximum contract volume with minimum and maximum daily quantities.</li> </ol>
Q10: Do you agree that the standard contract should not provide for price adjustments for taxes and government charges? If not, what changes would you prefer and why?	<p>Genesis Energy considers that the standard contract should provide for such price adjustments and considers in fact, given its prevalence in long term contracts, that its omission from the contract would increase uncertainty in pricing of standard trade contracts in particular in light of proposed carbon charges and changes in the Gas Industry Company levy.</p> <p>As noted by the Gas Industry Company in this and previous discussion papers, the trading contracts are likely to be used to enable downstream parties to trade 'unders' and 'overs' which arise under the relatively inflexible long term supply contracts. To the extent that these long term contracts include the ability for the seller to adjust prices for taxes and government charges a failure to pass these on under the short term trade contract exposes the buyer under the long term contract (who is the seller under the short term contract) to a cost exposure for the amount of such taxes and charges (which includes in many cases liability for any carbon tax or equivalent charge if it is introduced). Buyers under the long term contract are likely to seek to mitigate this exposure through the price they charge for the gas under the short term contract. Genesis Energy considers the ability for the taxes and charges to effectively be a "pass through" cost (as opposed to an uplift on the price akin to a risk premium) will result in more efficient pricing of short term contracts and that therefore the standard contract should provide for price adjustments for taxes and government charges.</p>

QUESTIONS	COMMENTS
<p><b>Q11:</b> Are you satisfied with the proposed approach for addressing s.41 of the Crown Minerals Act in the standard contract? If not, what alternative would you prefer and why?</p>	<p>Genesis Energy is satisfied with, and supports, the approach adopted by the Gas Industry Company with respect to s41. Genesis Energy notes in particular that given the significant consequence of failing to comply with s41 that the issue must be resolved by way of legislation. In the view of Genesis Energy, any degree of uncertainty as to the validity of contractual obligations in this area is unacceptable and industry participants would be unable to trade by way of a bilateral platform (or any of the other mechanisms considered by the Gas Industry Company under this review) if such uncertainty remained.</p>
<p><b>Q12:</b> Do you agree that the standard contract should not provide for any conditions precedent? If not, what alternative would you prefer and why?</p>	<p>Yes (with the exception of the s41 issue, as noted).</p>
<p><b>Q13:</b> Do you agree that the standard contract should not make seller liable for gas specification? If not, what alternative would you prefer and why?</p>	<p>Genesis Energy agrees that a Shipper should not be liable for gas specification, which is consistent with the position set out in the Vector standard TSA and MPOC (and the requirement under each transmission arrangement that the buyer under the short term trade has a TSA). Genesis Energy is however concerned that the buyer using the standard contract is able to exercise remedies for non-specification gas and in particular the indemnities given by MDL and Vector. Genesis Energy would like to discuss the liability chain in the upcoming workshop.</p> <p>If the seller is a Welded Party at a Maui receipt point then it will be liable for gas specification but under its Interconnection Agreement rather than the gas sales agreement. If the seller is a shipper at a Maui delivery point then it should not be liable for gas specification.</p> <p>Genesis Energy would like to discuss how this position is effected through the standard short term contract at the upcoming workshop (in particular with respect to clause 5.1.)</p>
<p><b>Q14:</b> Do you agree that the standard contract should not provide for any priority rights? If not, what alternative would you prefer and why?</p>	<p>Yes, although this may be a matter which parties wish to negotiate for short term trades of longer duration. Genesis Energy would like to discuss at the workshop the ability for the standard contract to accommodate special conditions (which may be selected for example from a list of standard clauses) so that the contract is suitable for trades of duration.</p>

QUESTIONS	COMMENTS
<p><b>Q15:</b> Do you agree that the standard contract should set out a broad description of the transport obligations/rights on buyer and seller? If not, what alternative would you prefer and why?</p>	<p>In Genesis Energy's view, this is not required provided the delivery point is defined and is limited to the Maui pipeline. It is more relevant that allocation based on nominated quantities and the need to execute Gas Transfer Agreements is covered.</p>
<p><b>Q16:</b> Do you agree that the standard contract should have liability provisions that exclude indirect losses, and that direct losses (in equivalent \$/GJ terms) would be capped at the pipeline mismatch/imbalance price? If not, what alternative would you prefer and why?</p>	<p>Yes.</p>
<p><b>Q17:</b> Do you agree that the standard contract should have FM provisions based on the principle that for very short term trades FM cannot be invoked unless balancing has been suspended – i.e. curtailment is occurring? If not, what alternative would you prefer and why?</p>	<p>Genesis Energy does not agree that <i>force majeure</i> raises the same issues discussed in the section titled 'Liability provisions', particularly as the contracts could be for periods of months.</p>
<p><b>Q18:</b> Do you agree with the proposed dispute resolution provisions for the standard contract? If not, what alternative would you prefer and why?</p>	<p>Genesis Energy agrees that invoice disputes should be referred to an independent expert with the appropriate technical expertise.</p> <p>With respect to all other disputes, Genesis Energy does not support the use of the Rulings Panel. These disputes may be complex (if unable to be resolved at senior management level) and Genesis Energy prefers that such disputes are referred to a forum with appropriate rules and due procedure for timely and appropriate resolution. Genesis Energy considers either the courts or arbitration to be appropriate and would provide parties with more transactional certainty than the as yet untried processes of a Rulings Panel. Finally Genesis Energy does not consider that use of the Rulings Panel would be more cost effective for parties than the other dispute resolution mechanisms.</p>

QUESTIONS	COMMENTS
<p><b>Q19:</b> Do you agree that the standard contract should provide a standard assignment provision? If not, what alternative would you prefer and why?</p>	<p>Yes provided that the rights of buyers to on-sell and use the gas for any purpose is unrestricted.</p>
<p><b>Q20:</b> Do you agree that the Gas Industry Co should make the standard contract available for use (once the feedback from this discussion paper has been considered and incorporated)? If not, what alternative path forward would you prefer and why?</p>	<p>Yes. As a matter of good practice, the Gas Industry Company should also invite and accept proposals for changes on an ad-hoc basis and be prepared to issue new versions if significant issues arise.</p>
<p><b>Q21:</b> Do you agree that a platform should extend the compliance regime being developed by the Gas Industry Co in order to keep costs to a minimum? If not, what alternative would you prefer and why?</p>	<p>With respect to the two aspects of the compliance regime, Genesis Energy is of the view that the governance regime discussed in this section of the discussion paper should extend only to the operation of the platform (i.e. enforcement of the platform governance rules) and not to the deals themselves (i.e. enforcement of the bilateral trades).</p> <p>Genesis Energy reserves its position as to whether the compliance regime currently being developed by the Gas Industry Company is appropriate for governance of the operation of the trading platform until the details (and in particular the specific rules that would be applied) are made available.</p>
<p><b>Q22:</b> Do you agree that the preferred approach to prudential management is the white-list? If not, what alternative would you prefer and why?</p>	<p>Yes.</p>
<p><b>Q23:</b> Do you agree that the platform should allow participants to nominate their preferred location for making offers or bids (provided this does not add undue cost to a platform development)? If not, what alternative would you prefer and why?</p>	<p>Yes, but be limited to Maui welded points.</p>

QUESTIONS	COMMENTS
<p><b>Q24:</b> Do you consider the indicative cost ranges for the matching platform to be reasonable? If not, what amendments would you propose and why?</p>	<p>The indicative costs appear to be consistent with the cost of developing the electricity hedge market platform, and therefore reasonable.</p> <p>However, Genesis Energy is interested in the specific nature of the controls that the Gas Industry Company intends to place on such costs to ensure that they come within these ranges if the matching platform is developed.</p>
<p><b>Q25:</b> Do you consider the indicative benefit ranges for the matching platform to be reasonable? If not, what amendments would you propose and why?</p>	<p>Genesis Energy has no basis on which to make a judgement as to the reasonableness or otherwise of the benefit ranges but consider that the benefits of a matching platform are likely to be sufficiently great to warrant its development provided that the costs are within the indicative ranges referred to in the previous section of the discussion paper.</p>
<p><b>Q26:</b> Do you support the conclusion that it would be reasonable to proceed with development of a matching platform, provided it can be progressed at modest cost? If not, what path forward would you propose and why?</p>	<p>Yes, provided that the costs prove to be modest, budgets are managed and industry participants are involved in developing the system specification, its development and testing.</p> <p>One issue of direct relevance to the reasonableness or otherwise of the conclusion to proceed with the development of a matching platform is the impact, if any, of any alternative trading platforms. The Gas Industry Company will be aware that since the publication of its discussion paper, that Greymouth Petroleum has announced its plans to commence an internet-based spot market for gas from its Turangi field in Taranaki. While Genesis Energy can only speculate as to whether this market will eventuate and if it does its level of success and ability to deliver on Government Policy Statement objectives, Genesis Energy urges the Gas Industry Company to monitor this development closely given its potential impact for the success or otherwise of the Gas Industry Company's platform and therefore the degree of effort required by the Gas Industry Company.</p>
<p><b>Q27:</b> Do you consider the indicative cost ranges for the trading platform to be reasonable? If not, what amendments would you propose and why?</p>	<p>Genesis Energy currently has no basis on which to make a judgement and considers this will be able to be better estimated after the industry has had a reasonable period of experience with the matching platform.</p>
<p><b>Q28:</b> Do you consider the indicative benefit ranges for the trading platform to be reasonable? If not, what amendments would you propose and why?</p>	<p>Genesis Energy currently has no basis on which to make a judgement and considers this will be able to be better estimated after the industry has had a reasonable period of experience with the matching platform. Genesis Energy does not currently consider that such a platform is warranted.</p>



QUESTIONS	COMMENTS
<p><b>Q29:</b> Do you support the conclusion that it would be risky to proceed with development of a trading platform due to uncertainty over net benefits, but that it would be worthwhile to seek to narrow the uncertainties, and in particular to examine the costs and benefits of making the pipeline imbalance pricing mechanisms more responsive and dynamic? If not, what conclusion would you draw and why?</p>	<p>Yes. This is not relevant at this point in time. Given the history of the OATIS development (still ongoing) we have major concerns about automated systems development. Genesis Energy strongly recommend that no work is commissioned in this area until the industry has a reasonable period of experience with the matching platform (assuming it is developed).</p> <p>Genesis Energy do not see the need to automate the linkage with transmission arrangements for example. Depending on the delivery point of a trade the buyer is likely to want the option to re-optimize its overall transmission plan across its portfolio of gas supply and transmission contracts.</p>