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15 April 2005

Richard Longman  
The Secretariat  
Gas Industry Company Limited  
PO Box 10 646  
Wellington

Dear Richard

**Re: Gas Industry Company Levy Proposal**

Thank you for the opportunity to comment on the “Gas Industry Company Levy Proposal” discussion paper. Mighty River Power’s comments are set out below.

1. At a policy level, we would like to state that, notwithstanding the direction adopted by government with respect to funding the Gas Industry Company (GIC) via a levy on market participants, we believe a more appropriate model would be that recommended by Dr Graham Scott<sup>1</sup> in his analysis of the government’s proposals regarding charges for the electricity industry. His argument was that funding for those services not provided specifically for industry should be derived from the general taxation pool.

*Enforcement* is not a service that the industry is purchasing from the Electricity Commission. This is an exercise of coercive power through law and is something that is being done to the industry. It is an activity more appropriately funded from general taxation just like any other government enforcement activity. [emphasis added]<sup>2</sup>

We note that the discussion paper specifically refers to the possibility that the GIC may become involved in such enforcement activities:

Where appropriate, the GIC may ultimately be involved in the implementation of market arrangements and in the surveillance and *enforcement* of market rules.” [emphasis added]<sup>3</sup>

Although government has not implemented Dr Scott’s recommendations in this regard for the Electricity Commission, we take the view that his proposition is consistent with sound public policy principles. Thus we recommend that a clear process of delineation is undertaken with respect to the proposed role of the GIC, in order to determine what is provided specifically for industry, and what is not and hence more appropriately funded through the general taxation pool (rather than a market levy).

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<sup>1</sup> *Comments on Charges for Electricity Industry*, Dr Graham Scott and Lynne McKenzie, November 2003, section 2.1, 3, p3.

<sup>2</sup> *Comments on Charges for Electricity Industry*, Dr Graham Scott and Lynne McKenzie, November 2003, Section 2.1, 3, p3.

<sup>3</sup> Discussion Paper, 1.

2. Even though the GIC is required to be “broadly inclusive of industry participants”,<sup>4</sup> it is still important for appropriate checks and balances to be placed on the potential expansion of the GIC’s ambit of functions and corresponding levy requirements. This concern is based on the following statements in the discussion paper:

“Where appropriate, the GIC may ultimately be involved in the implementation of market arrangements and in the surveillance and enforcement of market rules.”

“The GIC’s costs in subsequent years will depend on activities undertaken in those years and, as the levy must be set annually, may result in corresponding changes to the levy regulations from time to time.”<sup>5</sup>

Cost control should be an integral part of GIC company policy and culture, monitored closely by its Board and industry participants, particularly during annual consultation on levy reviews.

3. Imposition of the levy should be deferred for a reasonable period (at least 6 months) to give retail companies an opportunity to build this additional cost into *future* customer price increases. Insufficient forewarning may result in retailers who have recently increased prices having little practical choice other than to subsidise customers until their next round of tariff amendments.
4. In terms of ensuring an equitable approach to levy design, we believe the best method for calculating the upstream component of the levy is to use a per GJ basis, although we acknowledge that this may introduce a range of complexities at the implementation level (e.g. for a given plant that has used X amount of energy, would you determine this value in arrears; based on forecasts; other?). We recommend that the downstream part of the levy be calculated on a per ICP basis given this is the most administratively efficient approach available.

If you have any questions please contact me on (09) 308 8213.

Yours sincerely

**Neil Williams – General Manager**  
**External Affairs**

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<sup>4</sup> Section 43ZL, Gas Act 1992.

<sup>5</sup> Page 1.