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21 September 2007

Gas Industry Company,
Level 9, State Insurance Tower,
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(Attention Ian Dempster, Senior Advisor – Wholesale Markets)

Dear Ian

Gas Outage and Contingency Management Arrangements – Statement of Proposal

Further to our letter dated 14 September 2007, I attach the final version of MDL's submission on the Gas Industry Company's Statement of Proposal regarding Gas Outage and Contingency Management Arrangements.

MDL's internal governance procedures have been completed, and MDL has no objection to the attached document being posted on the Gas Industry Company's web-site.

MDL looks forward to working with the Gas Industry Company in this area and we would be pleased to meet with you to discuss our submission in more detail.

If you need any further information, please do not hesitate to contact me.

Yours truly,

David Bott
Commercial Operator, Maui Pipeline

SUBMISSION TO GAS INDUSTRY COMPANY

on

GAS OUTAGE AND CONTINGENCY MANAGEMENT ARRANGEMENTS

from

MAUI DEVELOPMENT LIMITED

14 September 2007

CONTENTS

1. EXECUTIVE SUMMARY

1.1 Maui Development Limited (**MDL**) welcomes the opportunity to provide comments to the Gas Industry Company (**GIC**) on the Statement of Proposal on Gas Outage and Contingency Management Arrangements dated August 2007 (**Statement of Proposal**).

1.2 MDL agrees with GIC that there are issues with the current method for dealing with gas contingencies and that regulation of gas contingencies (**GCs**) to a certain degree is desirable.

1.3 MDL acknowledges the work that GIC is putting in to develop a more appropriate set of arrangements to address GCs.

1.4 As one of the two major transmission network owners (**TNO**s), MDL wishes to work with GIC to ensure GC arrangements work well in practice.

1.5 MDL considers that there are a number of issues with the GIC's Statement of Proposal that need to be resolved. In particular:

(a) GIC's Statement of Proposal is not consistent with GIC's regulatory framework because GIC's proposed model:

(i) is less efficient, more complex and more costly than a reasonably practicable alternative;

(ii) leaves too much uncertainty, including around payment, and imbalance and mismatch pricing and quantities;

(iii) constrains the development of efficient market mechanisms;

(b) the relationship between outage and contingency management plans (**OCMPs**) and commercial arrangements is not clear;

(c) there are several practical issues, including around:

(i) disclosure of commercially sensitive information;

(ii) the development and amendment of OCMPs;

(iii) whether the gas contingency operator (**GCO**) would have access to the required information;

(iv) how the GCO is to maximise supply during a GC; and

(v) whether it is possible to target end users as priority takers of gas in this forum.

1.6 MDL has set out in this submission:

(a) its response to the GIC's Statement of Proposal, including answers to GIC's specific questions in Appendix 2; and

(b) an alternative regime for the management of GCs, which would address the unsatisfactory aspects of the current regime, deal with the issues with GIC's proposed model and meet GIC's objectives and timeframes (**MDL's Proposal**).

1.7 MDL's submission is confined to commenting on supply interruptions and or events that cause under pressure (depletion of Line Pack) noting that GIC's Statement of Proposal does not consider GCs arising from pipeline over pressure circumstances. MDL expects GIC will seek to address GCs arising from over pressure circumstances in an equivalent manner in due course. MDL looks forward to commenting on this at that time.

1.8 GIC dismisses the current arrangements as not being a reasonably practicable alternative and presents a proposal and counterfactual that are both completely new, hypothetical scenarios. While MDL accepts that there are legacy and teething issues with the current arrangements, it does not consider it appropriate for these issues to be used as an excuse for the current arrangements to be entirely dismissed.

1.9 As set out in section 8 of this submission, MDL's view is that the existing contingency arrangements in the Maui Pipeline Operating Code (**MPOC**) and Vector Transmission Services Agreement (**Vector TSA**) could be used to effectively manage GCs, subject to some minor contractual amendments and buttressed by limited regulation where necessary to ensure the arrangements work well in practice. At the very least, good regulatory practice dictates that MDL's Proposal be compared against the GIC's proposed model as a reasonably practicable counterfactual.

1.10 When compared against GIC's proposed model, the solution put forward in MDL's Proposal is simpler, less expensive and more effective and meets GIC's stated objectives and the GPS.

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2. BACKGROUND

MDL's position

2.1 Maui Development Limited (**MDL**) is a services company owned by the Maui Mining Companies (Shell Petroleum Mining Company Limited, OMV New Zealand Limited and Todd Petroleum Mining Limited). MDL is the contracting party with all Shippers[1] and Welded Parties[2] who wish to obtain gas Transmission Services on, or connect with, the Maui Pipeline[3].

2.2 MDL has a number of distinct functions with respect to the open access regime on the Maui Pipeline. It is the contracting party with all Shippers and Welded Parties. It receives and confirms Shippers' nominations[4], as well as monitoring Welded Party gas flows. It is the pipeline operator and the balancer of the Maui Pipeline. MDL has split the responsibility for its activities between three operators (the Commercial Operator, System Operator and Technical Operator[5]) and a Balancing Agent[6].

2.3 In considering whether anything is required to be or appropriately done by regulation, and if so what, it is critical to keep in mind certain relevant key design premises for the MPOC, and their consequences. These design premises reflect the practical and economic realities of the pipeline business and include:

(a) MPOC relates to the transportation of gas, not to its supply. Supply is the preserve of Shippers and Welded Parties;

(b) thus MDL, as pipeline owner and operator, only participates in the wholesale gas market to the extent necessary to provide transportation services. This includes (i) line pack and balancing gas in order to accommodate minor imbalances between supply and demand, both intraday and over short periods; and (ii) line pack and Contingency Volume to manage circumstances and events which may result in risk to pipeline or consumer safety. (Consistently MDL, in its capacity as pipeline owner and operator, is constrained by the MPOC from involvement with or in the MMCs' gas business.);

(c) Shippers and Welded Parties are obliged to balance their own supply and demand. There are incentives in the MPOC (eg, cash outs and the Incentives Pool) for these purposes. These operate on a user/causer pays basis;

(d) if adverse circumstances or events affect supply or demand or transmission the MPOC's approach is to balance the pipeline by altering injection and/or offtake to the extent required. Shippers and Welded Parties which can, and wish, to do so can use intraday cycles to maintain supply to their customers; and

(e) interconnected pipelines, which anyway depend on the Maui Pipeline for balancing to a considerable degree, are subject to these rights and must accommodate them within their own transmission services frameworks. Where circumstances or events affecting interconnected pipelines may also affect

[1] "Shipper" is defined in the MPOC.
[2] "Welded Party" is defined in the MPOC.
[3] "Maui Pipeline" is defined in the MPOC.
[4] Shippers' nominations are defined "Nominated Quantities" in the MPOC.
[5] "Commercial Operator", "System Operator" and "Technical Operator" are all defined in the MPOC.
[6] "Balancing Agent" is defined in the MPOC.

transmission service on the Maui Pipeline MPOC provisions can apply if and to the extent necessary, thus providing for communication and safety.

2.4 In MDL's view Shippers and Welded Parties must have strong and effective incentives to manage their own supply and demand balance and customer (including priority customer) requirements, at all times including whether there are adverse circumstances or events. In particular Shippers and Welded Parties should not be able to either free ride or depend upon others to manage their own positions. An effective regulatory intervention should have the effect of sharpening, not blunting or obscuring, these incentives, and should complement and be consistent with the way in which transmission codes, such as MPOC, already operate.

2.5 Currently, the National Gas Outage and Contingency Plan (**NGOCP**) is the overall plan dealing with risks relating to security of supply. MDL agrees with GIC that there are issues with the current arrangements, since the NGOCP is voluntary and not sufficiently clear, and there are no commercial arrangements in place to provide signals of the costs and benefits to the parties who take and supply gas during a GC.

2.6 Practically speaking, Vector's Transmission Pipelines and the downstream distribution pipelines are dependent on the Maui Pipeline for balancing. It is currently unlikely that these networks will be able to change their operations in any significant way to effectively mitigate or end a GC independent from Maui Pipeline services. Accordingly, MDL believes that these networks ought to have control systems and commercial arrangements that that support and reflect the control system and commercial arrangements of the Maui Pipeline. The MPOC already contains a number of provisions which provide mechanisms to manage the interconnection issues to ensure system compatibility. These include but are not limited to sections 2.13, 2.14, 8 12, 13, 14, 15 and Schedule 9.

2.7 The MPOC provides a useful mechanism for managing the behaviour of many of the key players in the gas industry because it is binding on all parties who transport gas through or are connected to the Maui Pipeline, it provides a clear procedure for MDL to follow, and it provides clear powers for MDL to exercise, in a GC.

Dealing with contingencies

2.8 Under section 15.1 of the MPOC, MDL can:

(a) interrupt or reduce transmission of gas to or from any Welded Point, and curtail Approved Nominations and associated Scheduled Quantities (SQ); and/or

(b) compel Welded Parties to *curtail or shutdown the transfer of gas to or from the Maui Pipeline* via an Operational Flow Order (OFO).

2.9 Under section 8.31 of the MPOC, MDL can release Line Pack and place Shippers into either Positive or Negative Mismatch.

2.10 What this means in practice is that the MPOC contemplates that there will be no additional costs associated with a GC. Rather than spending money to find extra gas, MDL simply reduces the Approved Nominations of the Shippers whose supplies have been affected or, in the case of shortage of pipeline capacity, rations the gas that is available. MDL may create Mismatches[7], but those Mismatches can be repaid in kind before MDL may cash them out in accordance with section 11 of the MPOC. A Shipper has at least one Day to pay back a Mismatch, so may incur no costs at all.

[7] See sections 8.30 and 8.31 of the MPOC.

2.11 Section 15.1 or 15.2 of the MPOC can be activated by a number of different types of events or circumstances, including so-called "Contingency Events". Contingency Events fall into three main categories:

(a) a demand event, where demand is substantially above or below nominated quantities;

(b) a supply event, where gas supply falls substantially below SQ[8] at one or more gas injection Welded Points; or

(c) a pipeline event, caused by a reduction in transmission capacity.

Current arrangements

2.12 Examples of the first two types of Contingency Event have been experienced since the open access regime was implemented for the Maui Pipeline.

2.13 Not all unplanned outages or interruptions proceed to the point where they become Contingency Events. As part of its normal operations, MDL maintains a quantity of Line Pack[9] to cover minor fluctuations in gas supplies and off-takes. In many cases the System Operator can manage minor fluctuations without taking any action because the Line Pack is sufficient to maintain deliverability to all Welded Points. Mechanisms set out in the MPOC are used to address any Operational Imbalances resulting from differences in actual gas flows and Scheduled Quantities at Welded Points or breaches of Peaking Limits set for Welded Parties.

2.14 In more serious cases:

(a) for instance, when a Welded Party's ability to inject its Scheduled Quantity (**SQ**) for that Day is detrimentally affected, it may declare a Contingency Event and notify MDL that the SQ at its Welded Point is reduced; and/or

(b) MDL may declare a Contingency Event and reduce the SQ at a Welded Point or Welded Points[10]. MDL may issue one or more OFOs requiring a Welded Point or Welded Points to reduce the flow rate to match the revised SQ.

In either case, MDL has two options available to it. MDL can curtail and balance Shippers' Approved Nominations and release Line Pack to Welded Parties or place Shippers into Mismatch and release Line Pack to Shippers.

2.15 MDL maintains a Contingency Volume to give Shippers and Welded Parties time to balance their positions following an interruption to supply. Transmission Services on the Maui Pipeline remain interrupted until the Contingency Volume is fully restored by those that have taken it.

2.16 To the extent Shippers and Welded Parties do not self manage and consequently consume the Contingency Volume for the Day, Phase 2 under the NGOCP is likely to be declared.

2.17 The lack of commercial levers in the NGOCP (the "carrot and stick" of paying gas suppliers and charging gas users) and the fact that not all industry participants have

[8] "Scheduled Quantity" is defined in the MPOC as the net quantity of gas (being the difference between receipt and delivery nominations) agreed by MDL and the Welded Party to pass through the relevant Welded Point for a Day.
[9] "Line Pack" is defined in the MPOC as the total quantity of gas in the Maui Pipeline at any time.
[10] This will also trigger Phase 1 of the NGOCP.

committed to act in accordance with it mean that the current processes are inadequate. MPOC with some amendment, and relevantly supported by regulation, can operate to deal with these issues.

2.18 In section 8 of this submission, MDL proposes an alternative model to that put forward in GIC's Proposal, which is premised on self management. Rather than curtail and balance Shippers' Approved Nominations and be left with Operational Imbalances at both Receipt and Delivery Welded Points, MDL could release Line Pack to Shippers that have lost all or part of their supply, providing them with an opportunity to re-nominate replacement supplies on the next Intraday Cycle. If Line Pack continues to fall to the point where the Contingency Volume is consumed and Phase 2 declared, MDL could place Shippers supplying the Delivery Welded Points requested by the EO to shed load into Positive Mismatch by reducing the SQ and curtailing the Approved Nominations at the Delivery Welded Points but leaving the supply side SQ and Approved Nominations whole. The entire gas transmission system would stabilise. Shippers would end the Day in either a Positive or Negative Mismatch or in a balanced position. Shippers in Mismatch would be cashed out at the end of the Day at the market price on that Day.

Limitations of the MPOC

2.19 Experience has shown that sometimes Welded Parties will not comply strictly, or in a timely way with an OFO.

2.20 Currently, MDL's remedy is suspension of flow into or out of the pipeline at the Welded Points in question. This is a very serious step for MDL to take and one which MDL has not yet taken. MDL is currently investigating the types of measures and incentives that could be introduced to ensure Welded Parties comply with OFOs. It may be that penalties (which would require regulatory authorisation) could be a part of the suite of remedial actions available.

2.21 Currently, Shippers may be restricted from being able to call replacement supplies into the system because the next Intraday Cycle maybe more than 2 hours away. MDL is considering introducing a moveable intraday cycle to address this issue. This can be addressed through the MPOC Change Process and minor changes to OATIS, and regulatory intervention is not required.

2.22 Due to the interface between the current NGOCP and MPOC Shippers appear to have no direct commercial incentive to re-nominate for replacement supplies (assuming tools to do so are available).

2.23 The MPOC does not contemplate MDL preventing, delaying or restoring conditions in a GC – these are matters for Shippers and Welded Parties; the participants with the essential interest in securing and maintaining a balance between supply and demand.

2.24 Moreover, relying on the Balancing Agent to save the day is unsustainable, inefficient and reduces the incentive for parties to self manage. It would also have the effect of socialising balancing costs that can be attributed and ought to be charged to the causer/user were the mechanisms to do this available. This would be contrary to a number of GIC's objectives set out in section 4 below. While regulation could provide the Balancing Agent or GCO with a cost recovery mechanism, the most efficient and effective approach to maximise supply is to incentivise and enable Shippers to access replacement supplies in a manner that enables them to recover their Mismatch position and stabilise the pipeline intraday.

2.25 The Incentives Pool provides for compensation to parties whose entitlement to draw gas from the system is affected by the actions of others. To date, there have been no claims against the Incentives Pool. MDL considers that some improvements could be made to the Incentives Pool mechanism so as better to match actions and consequences and to ensure that it operates under Force Majeure circumstances. Any amendments can be made through the MPOC Change Process and, in principle, regulatory intervention is not required.

2.26 The Maui Gas allocation process set out in section 3 of the MPOC creates uncertainty for MDL when it is managing a GC because of potential retrospective adjustments to Approved Nominations of Maui Gas. Section 15.11 of the MPOC states that "*the Buyer, a party to a User Contract or Methanex, as the case may be, may take the Line Pack to the extent that it is available above the Minimum Pressure*". This provision will cease to have effect with the expiration of the Maui Legacy Gas rights.

2.27 The underlying goal of the NGOCP (which seems to be a theme of the Statement of Proposal) is to ensure gas used by essential services and domestic consumers has priority of delivery in times of a GC. However, being only the provider of transmission services, Shippers do not disclose to MDL who its end users are. A GCO is not going to have information which enables it to identify and select priority customers/users (and anyway few are connected directly to the Maui Pipeline). In MDL's view the identification and selection of priority customers must principally be the responsibility of their gas suppliers; who should also bear the responsibility and cost of ensuring their supply.

2.28 MDL considers that there is no need for an entirely new regime to manage GCs. The existing processes, tested by time and experience and consistent with other operating models with some adaptations that are already under consideration, can and should be used. GIC's Statement of Proposal would fundamentally alter the way that TNOs currently manage GCs and may even require changes to the commercial arrangements at significant cost to the Industry.

3. GIC'S STATEMENT OF PROPOSAL

GIC's powers

3.1 MDL agrees with GIC that recommendations for regulations or rules around gas outage and contingency management in the wholesale gas market would fall squarely within GIC's powers and objectives under the Gas Act 1992 (**Act**).

3.2 MDL also considers that GIC's proposed hybrid of regulations and outage and contingency management plans (**OCMP**s) and the appointment and protection of a Gas Contingency Operator (**GCO**) is within its powers. The supplementary empowering provision in section 43S of the Act allows GIC to recommend regulations or rules that:

> *"provide for 1 or more persons or bodies or groups of persons to **carry out functions in relation to those regulations or rules**, and for matters concerning their establishment, constitution, functions, members (including their appointment, removal, duties, and **protection from liability**), procedures, employees, administration and operation, funding by industry participants, and reporting requirements."*
>
> [Emphasis added]

Is the proposal an appropriate model for addressing the current concerns with the NGOCP?

3.3 MDL has considered carefully whether GIC's Statement of Proposal is the most appropriate way to deal with GCs and has concluded that:

(a) it is not consistent with GIC's regulatory objectives;

(b) the relationship between OCMPs and commercial arrangements (including the MPOC) is not clear; and

(c) there are several practical and operational difficulties that would expose TNOs and gas users to risks that can be avoided while still meeting GIC's objectives.

3.4 The following sections set out MDL's concerns in more detail.

4. GIC's OBJECTIVES

4.1 When carrying out its functions as a quasi regulator, GIC is responsible for complying with:

(a) GIC's objectives as outlined in the Act and the Government Policy Statement on Gas Governance dated October 2004 (**GPS**);

(b) "standard criteria" that it has told the industry it uses; and

(c) features of good regulatory practice.

4.2 The objectives that GIC must follow in recommending regulations or rules are outlined in section 43ZN of the Act, which provides that:

> *"The objectives of the industry body, in recommending gas governance regulations under section 43F, are as follows:*
>
> *(a) the principal objective is to ensure that gas is delivered to existing and new customers in a safe, efficient, and reliable manner; and*
>
> *(b) the other objectives are-*
>
> *(i) the facilitation and promotion of the ongoing supply of gas to meet New Zealand's energy needs, by providing access to essential infrastructure and competitive market arrangement:*
>
> *(ii) barriers to competition in the gas industry are minimised:*
>
> *(iii) incentives for investment in gas processing facilities, transmission, and distribution are maintained or enhanced:*
>
> *(iv) delivered gas costs and prices are subject to sustained downward pressure:*
>
> *(v) risks relating to security of supply, including transport arrangements, are properly and efficiently managed by all parties:*
>
> *(vi) consistency with the Government's gas safety regime is maintained."*

4.3 The GPS also sets objectives for the GIC, which overlap with the objectives set out in the Act. Section 43ZO(4) of the Act requires GIC to have regard to GPS objectives and outcomes when recommending regulations to the Minister. The GPS provides that:

> *"4 The Government's overall policy objective for the gas industry is:*
>
> > *"To ensure that gas is delivered to existing and new customers in a safe, efficient, fair, reliable, and environmentally sustainable manner."*
>
> *5 Consistent with this overall objective, the Government is seeking the following specific outcomes:*
>
> *…*
>
> *b) Energy and other resources are used efficiently;*
>
> *…*
>
> *e) The full costs of producing and transporting gas are signalled to consumers;*

f) Delivered gas costs and prices are subject to sustained downward pressure;

…

h) Risks relating to security of supply, including transport arrangements, are properly and efficiently managed by all parties;

4.4 Appendix B of the Statement of Proposal identifies the following "standard criteria that are consistent with the various principles and objectives for the gas sector in general":

- ***economic efficiency*** *– the fee structure should not detract from efficient market behaviour;*
- ***user/causer/beneficiary pays*** *– where possible the costs should be allocated on a basis where those causing the costs or benefiting from the costs will pay;*
- ***rationality*** *– where costs are allocated to participant classes there should be a strong connection between the participant class and the costs being recovered;*
- ***simplicity*** *– the fee structure should be simple to apply and understand;*
- ***equity*** *– users in similar situations should pay similar amounts;*
- ***sufficiency*** *– the fee structure should generate sufficient revenue to recover the costs.*

4.5 In addition, MDL considers that the following are further features of good regulatory practice:

(a) **certainty** – the processes must lead to predictable results both in terms of gas quantities and gas prices;

(b) **timeliness** – the GC process must be completed as soon as possible so that gas industry participants can get on with business; and

(c) **light-handed regulation** – regulation should only be imposed as a last resort where the industry's commercial arrangements are failing; and then only to the extent that remedies the identified failure with the least possible impact on commercial arrangements.

4.6 MDL has assessed GIC's Statement of Proposal against those objectives and considers that the proposal does not meet several of them, as set out below.

5. ASSESSMENT AGAINST OBJECTIVES

Efficiency

5.1 The GIC has a number of objectives requiring its recommendations to be efficient. Efficiency of gas delivery is covered in GIC's principal objective in section 43ZN(a) of the Act and paragraph 4 of the GPS; and section 43ZN(b)(v) and paragraph 5(h) of the GPS requires it to ensure that risks relating to security of supply are efficiently managed.

5.2 GIC's proposed model is inefficient because it creates an entirely new system and process (including new information systems, website, regulatory processes and review systems) without making enough use of existing MPOC (and Vector TSA) provisions.

5.3 Related to that, the GIC's proposed model is far more complex than it needs to be, which is contrary to the requirement for good regulatory practice - that GIC's proposed model ought to be simple to apply.

5.4 Perhaps most significantly, GIC's proposed model has two major limitations in that it:

(a) does not create a clear commercial structure for producers who have gas available during a GC to supply that gas to a buyer of that gas on clear and certain terms as to price and time for delivery; and

(b) does not create a distinction between Shippers who have lost their entitlement to gas because their supply has been interrupted and those Shippers whose gas is compulsorily acquired to be supplied to another party with a higher contingency band.

Sustained downward pressure on gas prices

5.5 The Draft Gas (Outage and Contingency Management) Regulations proposed by GIC (**Draft Regulations**) would require a TNO such as MDL to incur significant costs in developing and implementing an OCMP. MDL will also incur additional costs associated with amending the MPOC and contractual arrangements entered into under the MPOC (such as Interconnection Agreements and Transmission Services Agreements). Those costs are not provided for in the Draft Regulations and seem to be expected to be carried by TNOs. It is unclear how a TNO might recover those costs except by increasing transmission charges. This would be contrary to the GIC's "user pays" objective in Appendix B.

5.6 The increased costs that would likely result from GIC's proposed model would be contrary to its objective in section 43ZN(b)(iv) of the Act that delivered gas costs and prices are to be subject to sustained downward pressure;

Appropriate cost allocation

5.7 It is unclear who pays under GIC's proposed model. Potentially the payer could be:

(a) the Shippers who have been put into Positive Mismatch (i.e. their supplies remain whole, but their offtake has been reduced);

(b) the Shippers who have had their quantities reduced but have a nil Mismatch (i.e. whose supplies and offtakes have been equally curtailed and balanced); and/or

(c) the TNO to the extent it needs to purchase balancing gas.

5.8 The parties that have "benefited" are the ones that have been kept whole, by being able to ship the gas that they nominated at the start of the affected Day. This may be because:

(a) their supplier(s) were *not* affected by the GC *and* they happened to be supplying higher priority customers (so there is no GC *but* they happened to be supplying higher priority customers (so there is a negative Mismatch).

5.9 In addition, there will be consequences for Welded Parties. It is not clear whether a Welded Party with a positive OI's would get paid for supplying gas into the pipeline above its Scheduled Quantity (which would breach its obligation in section 12.1 of the MPOC to match its metered gas flows to its Scheduled Quantity); or whether a Welded Party with a negative OI would have to pay in the same way as a Shipper with negative Mismatch.

Certainty

5.10 GIC's Statement of Proposal leaves too many issues unresolved. It does not:

(a) identify how "contract imbalances" will be calculated (except by allowing an unspecified "appointee" to work it out after the event;

(b) identify how the costs of negative imbalances will be calculated (except by saying that an "industry expert" will work it out);

(c) specify how the MPOC's "interruptions" processes set out in section 15 (which cover a whole range of possible causes including a GC) will feed into the new contingency process – for example, a Welded Party who receives an OFO from MDL under section 15.1 may ignore that OFO if it believes that it will be cleared to take gas under a GC (because it has priority end-users as its customers);

(d) set out the precise timing for a GC. For example, does a GC take effect as at the start of the Day which is already running (retrospectively), at the start of the current hour or at the start of the next hour? What happens to the gas that has already been transported up to that point in the Day? Similarly, if a GC ends, when do the emergency measures end? MDL notes that most scheduling for the gas industry is done in one-day increments, but that there is some scope for hourly scheduling (for example in relation to intra-day nominations and peaking calculations);

(e) specify what happens to tolerances on a Day that is affected by a GC. Are they reduced to zero (so that a precise price for all gas can be set)?

(f) specify how the GCO will maximise supply into the pipelines.

5.11 In addition, the procedure set out in the Draft Regulations around OCMPs leaves significant questions unresolved. There is no procedure for resolving disputes between the GCO and the TNO as to which amendments are required, or which amendments are "immaterial" (and therefore do not require consultation). It is also unclear why the GCO must notify the GIC within two business days of a decision to amend a OCMP, given that the normal approval processes must be followed.

5.12 There needs to be a dispute resolution provision included in the Draft Regulations. Examples of the types of amendment that should be considered "immaterial" should

be set out in the Draft Regulations. The role of the GIC in approving amendments also needs to be clarified.

Timeliness

5.13 GIC's Statement of Proposal sets out a process that takes many weeks to resolve.

Light-handed regulation

5.14 GIC's Statement of Proposal creates more regulation than is necessary. MDL considers that many of the issues can be resolved by amending the current arrangements, with much more limited regulations to fill in the necessary gaps.

6. STATUS OF OCMPs

6.1 One of the key reasons for the dissatisfaction with the NGOCP is the lack of certainty given its voluntary status and the inadequacy of commercial arrangements. MDL considers that, while the proposed OCMP might be drafted to apply to all industry participants, its status would be less than regulations or rules, and it would be unlikely to override commercial agreements. Vector has already noted that it considers it would be unable to take actions which would cut across its existing contractual obligations[11] and other participants, including MDL, are likely to be in a similar situation.

6.2 MDL considers that OCMPs should be drafted to have the least possible effect on commercial arrangements, but that if there is conflict:

(a) OCMPs should take priority over commercial arrangements; and

(b) a party that complies with an OCMP must be immune from liability under a pre-existing contract to the extent that compliance with the OCMP has caused breach of the contract.

6.3 In order to achieve this, the Draft Regulations should contain a provision making it clear that this is intended.

6.4 In addition, it may be preferable to give the OCMPs "rules" status. If OCMPs are mandated by the new regulatory framework, then once they have been approved they should be able to be relied on by all parties as if they were part of the regulations themselves.

6.5 While a full rules change process would be required to implement changes to the OCMPs if they had "rules" status (including consultation and approval/*Gazettal* by the Minister) the additional certainty would outweigh any such disadvantages.

[11] See paragraph 4.15 of the Consultation Paper.

7. PRACTICAL ISSUES

7.1 The Draft Regulations (regulation 49(c)) propose that the GCO will be able to maximise gas production and draw on gas storage – however, it is not set out how the GCO would do this. Currently, these balancing gas contracts are to be held and managed by the TNOs. MDL considers that it is very inefficient for the GCO to have to enter into balancing gas contracts which are only exercisable in a GC.

7.2 If the Regulations require TNOs to provide balancing services during a GC to prevent load shedding (which currently the MPOC provisions do not require) then TNOs should be repaid any costs they incur in providing this service.

7.3 In order for GIC's proposed model to work MDL considers that the GCO would need:

(a) the power to instruct MDL to curtail Shipper' Approved Nominations at, and issue OFOs to, Delivery Welded Points in accordance with the curtailment bands so that Shippers supplying priority users are kept whole. It will be difficult for the GCO to get the information that it needs to do this in real time (in order to match particular Shippers to gas users in the relevant contingency bands) as trading is potentially happening constantly; and

(b) the power to compel MDL to purchase balancing gas – otherwise the GCO would have to enter into its own balancing gas contracts; and

(c) the power to compel the relevant parties to pay for balancing gas and any ongoing costs of having balancing gas available on standby.

7.4 MDL's submission is that GIC's Statement of Proposal assumes the existence of information that may be difficult or impossible to obtain. The appointment of independent experts to determine gas quantities taken and supplied during a GC only after the GC ends is an admission by GIC that existing information flows would not support the proposal. Any process must be based on data that the Open Access Transmission Information System (**OATIS**) actually produces (or that Gas Transfer Agents referred to in the Gas Transfer Code have). Simply stating that a third party expert will be able to work it out after the event does not give the gas industry any confidence that the rules used to derive quantities will be objective, pre-determined and certain.

7.5 GIC's proposal for the development of OCMPs raises a number of practical issues for TNOs:

(a) first, a TNO has no input into the appointment of the expert adviser;

(b) secondly, whilst the GCO is required to give reasons for its rejection of an OCMP, the GIC is not. GIC is apparently proposing the concept of an OCMP because it considers that TNOs, as the parties managing the networks, are the appropriate parties to develop the detail of how to manage GCs. It is not appropriate for GIC to do that, and then judge TNOs' views of how to manage their systems without giving good reasons for doing so. On this basis, the reasons for GIC rejecting an OCMP in part or whole should be limited;

(c) thirdly, in preparing the OCMP, a TNO risks publication of information that it considers to be commercially sensitive, in circumstances where the GIC disagrees; and

(d) finally, there appears to be no limit on the number of times a OCMP may be required to be resubmitted. The costs involved in a drawn out process may be

significant and should be recoverable by a TNO, particularly if the GCO or GIC gives inadequate reasons for rejecting the OCMP.

7.6 The MPOC enables MDL to manage the rights and obligations of Shippers and Welded Parties in a contingency situation. The Draft Regulations, however, require a OCMP to focus on the consequences for specific categories of gas consumers. TNOs are not necessarily in a position to know who their shippers are selling to (and, because the gas can be traded a number of times before it is used, shippers may not know themselves where their gas will end up being used). This means that it would be difficult for a TNO to implement an OCMP under GIC's proposed model.

8. MDL's PROPOSAL

8.1 MDL believes that regulation should be used as a last resort, only where, and to the extent that, industry arrangements are failing.

8.2 MDL agrees that there are shortcomings with the current industry arrangements but considers that there are tools available to mitigate the effects of a GC and meet the GPS goals.

8.3 MDL believes that the responsibility to maximise supply to prevent or delay the declaration of Phase 2 should rest with Shippers, who ought to be incentivised and given the appropriate tools to access replacement supplies in the event of an interruption to their supply.

8.4 MDL acknowledges that in the New Zealand context it may well be that even fully incentivised and enabled Shippers cannot maximise supply during a GC, either because they are not prepared to pay the asking price (in which case the buyer does not attribute a value to the priority they are afforded by the bands) or because producers have contracted their reserves and cannot respond to a request without breaching contractual arrangements, which is also a matter of price. This is not market failure and not for Regulations to resolve unless there is some structural mismatch between the priority bands and the value parties attribute to gas or because of an overriding safety issue.

8.5 If there is a compelling reason for maintaining supply despite the fact Shippers are not prepared to pay for it, then you need a compulsory regime that compels action on both the supply and demand side of the equation on the basis of a price to be determined. It is noted that the GIC's proposed model does not compel action on the supply side, from which the inference can be drawn that this is not required at this stage. Consequently, charging the GCO with the task of maximising supply merely reduces the incentives for Shippers to develop and operate a market to full effect.

8.6 Tools that could be further developed and or made available under the current arrangements include the following:

(a) as part of their standard agreements with shippers, TNOs currently have the ability to effectively declare a GC (under section 15 of the MPOC and clause 11 of the Vector standard TSA). Each TNO should continue to have the power to decide when there is a GC on its pipeline.[12] A GC for the purposes of any regulation should be when the TNO has made that declaration in respect of its pipeline;

(b) retailers have supply contracts with users of gas. Although MDL is not familiar with these agreements, presumably they exclude the retailer's liability for curtailing gas supplies during a force majeure event;

(c) section 15 of the MPOC gives MDL a range of powers to take action in relation to its Shippers and Welded Parties during a GC;

(d) Shipper Mismatch mechanisms could be used to account for and track the commercial effects of an interruption to supply and load shedding; and

[12] It is noted GC's on the networks downstream of the Maui Pipeline are unlikely to be a GCs on the Maui Pipeline. On the other hand, a GC on the Maui Pipeline is likely to always be a GC on networks downstream of the Maui Pipeline.

(e) the physical payback arrangements could be suspended or removed from the MPOC and the Mismatch and OI cash out mechanisms applied at the end of each Day, including a Day on which a GC occurred.

8.7 MDL therefore sees the opportunity for the industry to be subject to a set of rules that would make the following process mandatory:

(a) the Maui Pipeline TNO may declare a GC on the basis of its current operating practice (i.e. acting as a reasonable and prudent operator).[13] At that point there will be an industry wide GC for the purposes of the regulations;

(b) once a GC has been declared, MDL will take action under section 15 of the MPOC by:

(i) at the Receipt Point(s) whose SQs are interrupted, placing affected Shippers into Negative Mismatch and releasing Line Pack under section 8.31 of the MPOC. This step is based on the current arrangements and there would be no payment to compensate for curtailment (as curtailment is on the basis of contractual gas entitlements not being available rather than parties providing gas to which they are entitled to others in order to ensure that those in the highest priority bands are supplied).

(ii) to replace falling Line Pack, Shippers will be incentivised to purchase replacement supplies, which are nominated for using a flexible Intraday Cycle (i.e., outside the standard Intraday Cycle times).

(iii) to the extent Shippers do not bring on replacement supplies (because they are not prepared to pay the asking price) but their customers continue to consume, Line Pack will fall towards the level where Delivery Welded Points are required to shed load according to the priority curtailment bands. Shippers supplying Delivery Welded Points instructed to shed load will be placed into Positive Mismatch (i.e., their demand side Approved Nominations will be reduced but their supply side kept whole). This will stabilise the Maui Pipeline, which in turn will stabilise other transmission and distribution networks affected by the supply shortage.

(c) the TNOs' system operators will keep the gas industry updated on current and projected Line Pack levels (this will be focussed on the physical availability of gas at points in the transmission and distribution networks, not on individual parties' gas contract entitlements) using the same notifications processes as are currently used.

(d) to the extent that there is projected to be a shortage of gas, then retailers will have the power and the responsibility to instruct any of their customers who are gas users in the "first to be curtailed" curtailment bands to reduce demand (it is likely that they already have this power under existing arrangements under force majeure provisions, so no change will be needed to current contractual arrangements). Shippers and retailers supplying priority end-users should be compelled to provide details about these deliveries to both TNOs so that the demand side curtailments can be accurately effected.

[13] If there is a GC on the Vector transmission system it has the option to call on Balancing Gas, as defined in the MPOC, in order to balance its pipeline. It is assumed any costs Vector incurs in doing this would be recoverable from its Shippers through its Balancing and Peaking Pool.

(e) when both TNOs are able to declare that the GC is over, it will come to an end and normal contract transportation of gas will resume.

(f) MDL will have the obligation to cash out all negative and positive Mismatches (and OIs if there happen to be any) without having to give Shippers (and Welded Parties) the opportunity to repay the gas in kind. The price of such cash out will be set according to a formula set out in the regulations and, if required, approved by an expert appointed by the GIC by the 7th Business Day of the following month. This will enable the invoicing arrangements under the MPOC for gas purchased and sold by cash out to be completed in accordance with standard procedures.

Need for regulation

8.8 To give the industry certainty that GC's will be managed in this way, MDL sees the need for regulation of the following areas:

(a) Welded Parties must be required to comply with OFOs, and penalties should be set out for any failure to comply;

(b) curtailment bands should be set in relation to priority of gas supply;

(c) Shippers should be required to inform TNOs of the extent to which they are providing gas to consumers in priority bands, to enable TNOs to curtail and apply Mismatches appropriately;

(d) a formula should be set to establish the price for gas in a GC; and

(e) Parties' contractual liabilities should be limited to the extent that their actions are a necessary consequence of the management of a GC.

Need for changes to current arrangements

8.9 In addition to introducing light handed regulation, minor changes will be required in respect of the current arrangements, including setting tolerances to zero during a GC so that a precise price for gas can be set, and enabling a flexible Intraday Cycle. These can be made quickly and cost effectively under existing change process mechanisms, and ensure the GIC will meet its commitment to the Minister to have the new arrangements implemented by June 2008.

8.10 Some minor changes may also need to be made to the OATIS, such as to ensure all the necessary information is in one place and building in a flexible Intraday Cycle.

Assessment of MDL's proposal

8.11 MDL considers that this proposal meets GIC's regulatory criteria:

(a) it ensures that **risks relating to security of supply are properly and efficiently managed** to the extent the GIC considers required at this stage;

(b) it is more **efficient** than GIC's proposal:

(i) existing MPOC and Vector TSA mechanisms (including existing information systems/website, balancing gas contracts, Mismatch and OI cash out mechanisms) are used;

(ii) Shippers, who are best placed to keep the gas flowing, have the primary responsibility for doing so;

(iii) retailers will use existing force majeure provisions in their supply contracts to issue demand reduction notices to their customers according to the curtailment bands without incurring any liability to those customers affected;

(iv) it ensures that those parties getting the benefit of others' gas supplies during a GC when their own supplies are interrupted pay a price for that supply that recognises the scarcity value. This is both **efficient** and consistent with the **beneficiary pays**/**user pays** principles that GIC espouses;

(c) it ensures that appropriate gas users have priority **access to essential gas supplies** in times where that supply is generally scarce;

(d) because it avoids the need for a GCO to administer it, a new framework, website and notification mechanism, it will help ensure that **gas prices are subject to downward pressure**;

(e) it is **simple** and **fair**;

(f) it is **certain**:

(i) Shippers have replacement supplies in place or subject themselves to cash out at a price determined by the supply and demand conditions on the Day of the GC;

(ii) prices for gas taken above a party's contractual entitlement will be set according to a formula in the regulations – and will therefore be certain and transparent;

(iii) "contract imbalances" are dealt with at the time by TNOs, rather than leaving it to an unspecified "appointee" to work it out after the event;

(iv) it will remove the uncertainty around the interplay between MPOC's "interruptions" processes set out in section 15 (which cover a whole range of possible causes including a GC) and the Draft Regulations by clarifying that Welded Parties must comply with OFOs or be subject to penalties;

(g) it provides **sufficient** resources to cover its related costs;

(h) it is **timely**, in that:

(i) it can be implemented in the timeframes that GIC has committed to the Minister that it will meet;

(ii) everything that needs to be resolved following a GC will happen within a reasonably short timeframe (quantities at the time, and prices prior to the next invoicing date);

(i) it is **light handed regulation**.

APPENDIX 1

GLOSSARY

In this submission:

"**Act**" means the Gas Act 1992.

"**Draft Regulations**" means the Draft Gas (Outage and Contingency Management) Regulations proposed by GIC in the Statement of Proposal.

"**GC**" means a gas contingency event.

"**GPS**" means the Government Policy Statement on Gas Governance dated October 2004.

"**GIC**" means the Gas Industry Company Limited.

"**MDL**" means Maui Development Limited.

"**Minister**" means the Minister of Energy.

"**MPOC**" means Maui Pipeline Operating Code.

"**NGOCP**" means the current National Gas Outage Contingency Plan.

"**OCMP**" means Outage and Contingency Management Plan.

"**OFO**" means Operational Flow Order.

"**Regulations**" means the draft Gas (Outage and Contingency Management) Regulations 2008 proposed by GIC in the Statement of Proposal.

"**Shipper**" has the meaning set out in the MPOC, whereas "**shipper**" means a shipper on either the Vector or Maui pipelines

"GIC's **Statement of Proposal**" means the GIC's Statement of Proposal on Gas Outage and Contingency Management Arrangements dated August 2007.

"**TNO**" means Transmission Network Owner.

APPENDIX 2

ANSWERS TO GIC QUESTIONS

QUESTION	COMMENT
Q1: Do you agree the four problems described in this section are key issues needing to be addressed in any new arrangements for outage and contingency management?	MDL largely agrees with the problems articulated. In particular, we agree that: • it is unsatisfactory that the NGOCP is not mandatory; • there is a lack of legal clarity around the status of contingency arrangements as compared to commercial arrangements and around potential consequential liability; and • the current commercial arrangements are inadequate since they provide no way to compensate parties who are called on to supply gas at the time of a GC. However, we agree with those submitters responding to the July 2006 discussion paper who regarded MPOC as having most of the tools required to effectively manage GCs. While in practice, Shippers and Welded Parties do not always comply with revisions to their nominations or with OFOs, MDL consider that this can be addressed without the need for an entirely new regime.
Q2: Are there other key problems with the current arrangements which also need to be addressed?	Yes. The other key problem with the current arrangements is that they can't see through to the end user. The parties that are in a position to manage GCs on transmission networks have no relationship with the essential service providers or minimal load consumers that GIC wants to protect. Retailers are better placed to deal with those parties. However, there is no provision for GIC to recommend regulations in respect of retail gas markets.

QUESTION	COMMENT
Q3: Given the difficulties in assigning penalties for non-compliance under a pan-industry agreement and, therefore, the inability to ensure a high-level of compliance, do you agree that the only reasonably practicable alternative to the proposal is a more fully prescribed regime incorporating the detailed arrangements for contingencies in regulations and/or rules?	No. MDL agrees that there are difficulties with assigning penalties for non-compliance under a pan-industry agreement, and that, therefore, a simple agreement framework will not achieve the objectives. We also agree that a more fully prescribed regime incorporating detailed arrangements for GCs in regulations or rules is an alternative. However, MDL is surprised that the only two potential solutions GIC has chosen to focus on are completely hypothetical, and that the status quo has been dismissed out of hand as not being reasonably practicable, without any consideration of what can be done to make it a practicable alternative. MDL considers that a solution based on a development of the current framework to address the problems set out above is possible and will better meet GIC's objectives than GIC's proposal, the alternative it has considered or the status quo without any changes. Please see section 8 of this submission for details of MDL's proposal.
Q4: Do you agree with the proposed regulatory objective?	MDL agrees with the thrust of the proposed regulatory objective, but considers that there are other factors that need to be incorporated into it. In particular, MDL considers that there should be an efficiency element.
Q5: Do you agree that the net benefits of the proposal are materially higher than the net benefits of the counterfactual?	No. This is untested. The costs of the proposal do not take into account the costs incurred by TNOs in formulating OCMPs, consulting on them and implementing them (including the costs of making any changes to existing contractual arrangements – in MDL's case to the MPOC). Also, MDL considers that the net benefits of the proposal (and GIC's counterfactual) are likely to be significantly lower than those of MDL's proposed alternative set out in section 8 of this submission.

QUESTION	COMMENT
Q6: Do you agree that the proposal has the potential to address the key problems identified with the current arrangements?	The proposal does have the potential to address the key problems with the current arrangements. However, there is much missing from the proposal that would need to be addressed before that potential could be fulfilled. For example, the proposal does not: • identify how "contract imbalances" will be calculated (except by allowing an unspecified "appointee" to work it out after the event); • identify how the costs of negative OIs and Mismatches will be calculated (except by saying that an "industry expert" will work it out); • address the problem of "free riders" whose gas supplies were interrupted by a GC having access to others' gas but not having to pay a price for it that recognises it was taken when supplies were scarce; • specify how the MPOC's "interruptions" processes set out in section 15 will feed into the new contingency process. For example, a Welded Party who receives an OFO from MDL under section 15.1 may ignore that OFO if it believes that it will be entitled to continue to take gas under a GC (because it has priority end-users as its customers); • set out the precise timing for a GC (Does a GC take effect as at the start of the Day which is already running (retrospectively), at the start of the current hour or at the start of the next hour? While most scheduling for the gas industry is done in one-day increments, there is some scope for hourly scheduling (for example in relation to intra-day nominations and peaking calculations)); • set out what happens to the gas that has already been transported up to the time of a GC; • set out when the emergency measures end; • specify what happens to tolerances on a Day that is affected by a GC (Are they reduced to zero so that a precise price for all gas can be set?); • create a role for the Balancing Agent to mitigate the effects of the contingency by calling for supply of gas under gas balancing contracts. MDL does not believe that the proposal is the optimal way to deal with those key problems.

QUESTION	COMMENT
Q7: Do you agree with the proposed definition of a Gas Contingency? If not, what would you propose?	No. MDL considers that the proposed definition is far too broad. In addition, MDL considers that it is confusing and inefficient to have several different definitions of a GC in place, and would prefer that existing definitions were used. MDL proposes that GIC's proposed definition of "gas contingency" in the Draft Regulations be replaced, based on the definition of "Contingency Event" in the MPOC. That is: "**gas contingency** means an event or circumstance that the relevant transmission network owner believes, acting as a reasonable and prudent operator, has detrimentally affected its ability to transmit gas through the transmission network or depleted the total quantity of gas in a pipeline to an unacceptable level, or could do so, and includes an emergency." Definitions of "emergency" and "reasonable and prudent operator" would then also be required, which could also be based on the definitions set out in the MPOC: "**emergency** means a state of affairs, or an event or circumstance that gives rise to that state of affairs, that the relevant transmission network owner, acting as a reasonable and prudent operator, determines to be an emergency, irrespective of the cause of the emergency and of whether that transmission network owner or any other person may have caused or contributed to the emergency. Such a state of affairs may exist: (a) by reason of an escape, or reasonably suspected escape, of gas from a pipeline; or (b) in circumstances in which, in the relevant transmission network owner's opinion, acting as a reasonable and prudent operator: (i) the safety of the transmission network is significantly at risk; or (ii) the safe transportation of gas through the relevant pipeline is significantly at risk; or (c) where gas transported through the transmission network is at such a pressure or of such a quality as to constitute, when supplied to premises, a danger to life, property or the environment; or (d) where there exists any other circumstances reasonably believed by the relevant transmission network owner to constitute an emergency (which, for the avoidance of doubt, may include

QUESTION	COMMENT
	circumstances on another pipeline); or (e) in particular, but without limitation, where the transmission network owner's ability to maintain the required pressures within the relevant pipeline is affected or threatened by: (i) an interruption or disruption to the relevant pipeline; or (ii) an insufficiency of deliveries of gas to the relevant pipeline; or (iii) any actual or potential failure of, or damage to, any part of the relevant pipeline; or (iv) any off-take of a quantity of gas from the relevant pipeline which exceeds the quantities permitted by the system operator.
Q8: Do you agree with the list of responsibilities given to the GCO?	In MDL's view, the introduction of a new GCO role is unnecessary and most of the necessary tasks would be better performed by the existing system operator or TNO. However, if the GCO concept is retained, the GCO's role should be confined to non-commercial operational issues. In particular: • the GCO should have no role in recommending the approval of an OCMP where it may be the author of that OCMP. This is a clear conflict of interest; • the declaration of a GC should be an engineering decision (and probably taken by the system operator). The GCO should only be able to declare a GC at the request of a TNO; and • it is not clear how a GCO will be able to maximise opportunities to obtain additional supplies from producers. MDL submits that Shippers will be in a better position to secure alternative supplies during a GC (and this will be a lower-cost option for the market).

QUESTION	COMMENT
Q9: Do you agree that the GCO should be provided with some flexibility to take action that it considers necessary to ensure the effective management of a gas contingency?	No. This is far too broad a power to give to an operator and would create great uncertainty as to what a GCO might be able to do during a GC. In practice there are only two things that a GCO can do during a GC: increase supply or decrease offtakes. If the GCO needs other tools (like having the power to operate compressors or change tolerances at Welded Points) then these would need to be specifically provided for and confined to what is necessary to deal with the GC. The GCO's powers should not be extended to infringe unnecessarily on the property rights of TNOs. If the GCO were to have a general power, it should at the very least have to meet the standard of a reasonable and prudent operator.
Q10: Do you agree with the split between the planning role for the TNO and the communications plan role for the GCO? Do you agree that an industry expert should assist the GCO in the process to approve the plans?	No. TNOs already have communications plans in place with their customers and interconnected parties. These communications protocols should be used during a GC (and adapted if necessary). It is inefficient to create a new, separate protocol that only kicks in at times of great stress on the system.
Q11: Do you agree that the existing NGOCP curtailment bands should be updated: a) To distinguish large consumers supplied from the transmission system that have an alternative fuel capability, from those that do not have an alternative fuel capability? b) To combine the existing NGOCP bands B, C and D into a single band? c) To establish the category of minimal load consumer?	MDL is neutral about these bands.
Q12: If you agree with the provision for the category of minimal load consumer, do you consider these arrangements should be designed in such a way as to encourage such consumers to make alternative arrangements wherever practicable, for example by making the classification for a consumer time-limited?	MDL is neutral about these bands.
Q13: Do you agree that the proposed contingency cash-out price will provide incentives for commercial arrangements to be put in place to maximise upstream production during a GC?	Setting a price for gas supplied above contractual entitlements during a GC and making parties cash out their Mismatches at that price is a great improvement on current arrangements. However, MDL believes that these costs will be lower if Shippers arrange their own back up supplies in the first instance.

QUESTION	COMMENT
Q14: Do you agree with the proposed criteria for setting the contingency price? Are there any other prices that the expert could usefully reference to determine the contingency price?	MDL agrees that a contingency price should be set. If possible, there should be a formula to determine that price prior to the GC, but MDL accepts that it may be necessary to have the price determined (according to the formula) a short time after the GC. The price needs to be sufficiently high to strongly incentivise Shippers to have access to alternative supply contracts.
Q15: Do you agree that the proposed scheme to calculate imbalances using existing industry processes is workable? If not, what adjustment would be required?	MDL agrees with the concept of using existing industry processes to calculate imbalances. The MPOC contains provisions to pass the costs of imbalances on to the party that has the imbalance (a Welded Party with an Accumulated Excess Operational Imbalance (**AEOI**) or a Shipper with a Mismatch) by cashing out the imbalance at the Negative Mismatch Price. Vector passes the costs of imbalances on to its shippers through its mismatch pools (which allocate AEOIs according to a pre-determined formula). What GIC seems to be proposing is that MDL would change its processes so that any Receipt Point elements of a Shipper's Approved Nomination (AN) would remain intact (if that Welded Point was unaffected by the GC) and that the Delivery element of the AN would be curtailed. This would put each affected Shipper into Mismatch. MDL agrees with this approach.
Q16: Do you agree with the proposal to have the contingency cash-out pool administered by the GIC? What period should be given to parties for payment of invoices issued by the contingency cash-out pool?	No. It's not necessary. MDL can use its existing Mismatch cash out mechanism (amended slightly to provide for compulsory cash out rather than giving a time period to repay gas in kind). Vector can use its mismatch pools to pass any costs on to its suppliers.
Q17: Do you agree with the proposed communications process shown in Figure 2?	No. MDL doesn't have contracts or any other direct relationship with "retailers" or "large consumers" – just Shippers and Welded Parties. Also, MDL considers that the arrangements should make use of existing industry communications frameworks rather than creating new ones.
Q18: Given that any exposure under a service provider agreement is likely to be reflected in the price, do you agree that GCO liability under the service provider contract should be limited in the manner proposed?	Yes (although as discussed above, MDL considers that other parties are better placed to carry out the "GCO" role).
Q19: Do you agree with the proposed approach to allocating the costs associated with administering the outage and contingency management arrangements?	MDL is unconvinced that the GC regime needs to be a cost to the industry in general. MDL considers that the cost of administering a regime which uses existing MPOC and Vector TSA mechanisms would be minimal and could be borne by MDL and Vector within their existing charging frameworks.