



**Maui Development Limited:
Submission on the GIC's Transmission
Balancing Second Options Paper**

17 August 2009



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Introduction

Maui Development Limited (**MDL**) welcomes the opportunity to comment on the “Transmission Balancing Second Options Paper” issued by the Gas Industry Company. (The **GIC Paper**). Since the termination of the Maui Legacy Gas provisions in the Maui Pipeline Operating Code, (**MPOC**) in December 2008, the gas industry has had a chance to see the balancing provisions of the MPOC operating free of the Legacy Gas constraints. The experience gained in the months since December, has made it clear that further work should be done to increase efficiency and effectiveness in the three areas needed for pipeline balancing. These are:

- The arrangements for sourcing and purchasing balancing gas.
- The instructions that govern when and how balancing gas is to be used.
- The arrangements for allocating and collecting the cost of balancing gas.

MDL has worked on each of these three areas and believes that it can show good progress in some of them, and with to come in others. These points will be discussed later in this submission. However it is also clear that more work will be required to reach final resolution in some of these areas. This is also discussed below.

Part of the problem MDL faces is that it has in effect provided balancing gas supply services for the Maui pipeline and for the Vector-owned pipelines connected to it. Although the MPOC has provisions to assist Vector in the purchase and sale of balancing gas these have not been used and the cost of Maui Pipeline balancing required to balance Vector TP welded points is passed on to Vector shippers through the mechanisms set out in the Vector Transmission Code (VTC). This unfortunately concentrates attention on the regulation of Maui Pipeline balancing practices and costs, when the great majority of the imbalance requiring Maui balancing services is being generated outside the Maui Pipeline.

Nevertheless MDL believes that there is little future in trying to develop a set of prescriptive detailed balancing regulations. We believe that a prescriptive regulation solution would be expensive, inflexible and cumbersome while having the tendency of all such regulations to expose the industry to unforeseen adverse consequences that will not be easily corrected. MDL’s view is that any regulation that does occur should cover only those areas where adequate solutions cannot be reached by other means.

This view requires MDL and others to work towards solutions that are acceptable in terms of the Gas Act and GPS objectives and the general principles of good gas pipeline management set out in documents such as the ERGEG principles. This submission sets out the means by which MDL believes many of the objectives set by the GIC can be achieved.

Finally, MDL believes that some of the work required to implement an effective balancing system has been left outside the scope of the GIC paper. This too is discussed more fully in the section below.

A. Progress to Date

1. Background

MDL considers that the process of pipeline balancing can be divided into three parts:



- Sourcing and purchasing balancing gas. These arrangements involve the operation of the Balancing Gas Exchange (**BGX**), the balancing gas contractual arrangements that underpin it, the arrangements that have to be made to provide a balancing gas “price stack” for each nomination cycle to pipeline operators, and the information on past balancing actions that is provided through the BGX service.
- Balancing the pipeline. The decision making process for utilising balancing gas involves System Operator determining whether a certain parameters are met in relation to underlying Line Pack conditions. The Balancing Agent has delegated this responsibility to the MDL System Operator via a set of Standing Operating Procedures, (**SOP**’s). The SOP documents are published on the OATIS web-site. As well as covering the parameters for the use of balancing gas in accordance with the Maui Balancing Gas Instruction, there are also SOPs published on OATIS which cover the decision making process for interrupting transmission services on the Maui Pipeline as a result of (a) curtailments initiated by Welded Parties, (b) curtailments due to under or over-pressure, and/or (c) curtailments resulting from physical events on the pipeline and curtailments due to capacity limitations.
- Balancing gas cost allocation. This process involves the allocation of balancing gas costs to causers, along with the invoicing to and collection of such costs as well as the resolution of any resulting disputes. The cost allocation process occurs in two stages. The first stage is carried out by the Maui Commercial Operator and involves the allocation of cash out, and Incentives Pool charges in accordance with MPOC processes to Welded Points on the Maui Pipeline. The second stage involves the allocation of these charges at the TP Welded Point in accordance with the Balancing and Peaking Pool (BPP) process set out in the Vector Transmission Code (VTC), under which, costs incurred at TP Welded Points are allocated to the downstream parties. MDL understands that it is common for disputes to arise between the parties who are subject to the BPP process.

Discussion of these balancing aspects also needs to take into account the changes in the Maui Pipeline balancing system over the past 12 months

2. Developments over past 12 months

Changes to the system of buying and using balancing gas have been accomplished against a background of large changes in the way in which the Maui Pipeline is balanced, and in particular the sources of balancing gas used to balance it. For most of the Open Access period the Maui Pipeline has been dependent on balancing services provided at no charge by the Maui Mining Companies’ Oaonui Production Station. Subject to operational constraints at Oaonui, this meant that balancing gas could be called upon more or less at any time as the need arose. Since the service was provided at no charge, the operation of many of the MPOC mechanisms for allocating balancing gas costs, such as the Incentives Pool, were suspended. In addition, the existence of the Maui Legacy Gas provisions led to disputes regarding the use of the cash out mechanism under the MPOC and a resulting lack of incentives on parties to self balance at Welded Points that received Legacy Gas.

Since the removal of the Legacy Gas provisions from the MPOC at the end of 2008, the balancing service provided from the Maui Gas field has been progressively withdrawn. This has resulted in balancing gas services to the Maui Pipeline being provided principally by a number of independent balancing gas suppliers pursuant to a standard form of balancing gas contract which enables balancing gas offers and notifications to be made at timeframes consistent with the OATIS nominations cycle times. Services supplied later in the day are generally more expensive, given the



limited time over which the service has to be supplied. This development has meant that the Incentives Pool mechanism and the MPOC cash out mechanism have been operational, although there have been further disputes. Call balancing gas is still available from Oaonui from a 5 TJ/day facility, but availability of this gas will expire in 1-2 years.

In summary, the overall picture is one of substantial change whereby there are now more sources of balancing gas available to the pipeline but with a much lower degree of flexibility in using the supplies that are available than was the case with the operational balancing gas service originally provided by the Maui Field. This has, in turn, required substantial changes in the day to day approach to Maui Pipeline balancing.

3. Sourcing and Purchase of Balancing Gas

The main operational development in this area is the commencement of the operation of the Balancing Gas Exchange (**BGX**). The BGX provides an online facility for suppliers of balancing gas to bid to supply gas at each of the nomination cycles. This has seen the development of a real time market for balancing gas services which enables the Balancing Agent (via the System Operator) to enter into balancing gas transactions based on a “price stack” which shows all balancing gas offers (price and quantity) for each nomination cycle..

In addition to the information supplied to balancing gas suppliers, the BGX also supplies generally available information on all the price stacks and historic information on the use of Put and Call balancing gas. Further enhancements to the BGX are planned to be introduced soon and will include more information on balancing gas transactions in terms of both GJs purchased and the cost per GJ. MDL will encourage suggestions for future change by participants for introduction later in the year.

4. Balancing the Maui Pipeline

As noted above, the decision making process for use of balancing gas is governed by the balancing gas SOP posted on OATIS. These set out the conditions that have to be met before balancing gas services are used. There are other SOP’s that set out curtailment procedures.

MDL has been developing a revision of the SOP’s which seek to maximise the amount of pipeline flexibility that is made available to pipeline users. This process has involved a review of the Contingency Volume required under the MPOC and consideration of the requirements of MDL’s Critical Contingency Management Plan made under the Gas Governance (Critical Contingency Management) Regulations 2008.

Like the current SOP’s, the revised SOP’s will specify the circumstances under which balancing gas can be used. They will also specify how and under which circumstances, action will be taken to buy or sell gas to remove excess UFG from the pipeline and compensate for quantities of socialised balancing gas that have not been matched by cash outs.

The revised SOP’s are expected to be released shortly.

5. Balancing Gas Cost Allocation

Balancing gas costs are currently recovered through two main mechanisms:



- Incentives Pool charges for Call Balancing Gas on Days when the Balancing Agent has purchased gas.
- Cash outs of positions in cases where the requirements of an ILON notice have not been met.
- There is also income relating from the sale of Put gas.

Experience with the operation of these mechanisms shows that there is a great deal of room for improvement in terms of meeting the objectives of:

- Recovering actual balancing gas costs as accurately as possible.
- Assigning balancing gas costs to the causer(s) of the imbalance.

Given the feedback received from earlier GIC papers and MDL submissions, MDL has been examining the MPOC changes needed to bring the Back to Back Balancing option favoured by the GIC into operation. This work has included simulations of the operation of this cost allocation method using Maui Pipeline data and a preliminary assessment of the detailed operational changes that would be necessary to run it. It is clear that amendments to the MPOC will be required and that these will be subjected to industry scrutiny prior to implementation. A revision of current practice on the allocation of welded point tolerances will also be a necessary part of a Back to Back balancing solution. Nevertheless, MDL believes that the introduction of this system of balancing cost allocation will meet many of the objectives put forward in the GIC paper and be supported by the industry making any need for regulation of this change superfluous.

MDL plans to draft the required MPOC amendments and release them to the industry for discussion later in the year.

B. MDL's View of the Outstanding Issues

1. Exclusions from Scope

In the GIC paper the matters considered as part of the proposed regulatory options are set out in Table 2. In MDL's view, there are some notable exclusions from the immediate ambit of proposed regulatory action (even though the GIC intends to continue work in these areas):

- D+1 allocations.
- Extended Nomination options.

MDL believes that both these areas should be given greater recognition and priority.

D+1 Allocations

Taking D+1 allocations first, the assumed inability of mass market participants to match their scheduled quantities with actual flows is often given as a justification for special treatment in terms of tolerances or imbalance generally. The GIC paper comments in a footnote that, "*A D+1 allocation process will not remove the need for a residual balancing role, even if it may reduce its size. In addition it will take some time to determine the cost and practicality of D+1 allocations, with little expectation that the process would change any conclusions in this paper*".



In Section 4.3 of its submission¹ on the first GIC transmission balancing options paper, MDL pointed out that the day to day flexibility required by mass market providers comes at a cost. The difficulties in implementing a D+1 allocation scheme are noted; particularly when some mass market participants might not favour it, but MDL remains opposed to using this as an excuse to relax the obligation of mass market participants to pay for balancing services or to transfer their costs of balancing to others.

Any future solution for balancing gas cost allocation introduced by regulation or otherwise will have to face the problem of allocating costs to mass market participants. For this reason alone MDL believes that the issue should be given greater importance. Furthermore the adoption of an effective D+1 solution should make it easier for mass market participants to self balance more effectively, thus decreasing balancing costs.

Extended Nomination Options

In recent discussions within the Industry a number of extended nomination options have been canvassed. These vary in detail, but generally have the following characteristics:

- They apply to receipt or delivery points on Vector pipelines over a certain size.
- They assume a nominations regime similar to, or an extension of, the regime used on the Maui Pipeline.
- Each of the receipt or delivery points configured in this way would be responsible for its own imbalances and the resulting imbalance and peaking charges charged by a balancing agent.
- Receipt or delivery points on Vector pipelines not covered by these arrangements would have balancing and peaking charges allocated through a pooling system.

As noted in its earlier submission², MDL believes that arrangements of this type could have a substantial positive effect in curbing balancing charges and allowing the charges that remain to be more efficiently allocated to the causers of pipeline imbalance. Discussions within the Industry continue, and MDL is considering putting forward MPOC changes that will make the integration of measures of this type into the MPOC framework easier if agreement can be reached to go ahead with them. We think this is also an area which could be given priority attention by the GIC.

Inherent Flexibility of Downstream Pipeline Systems

It should not be forgotten that in addition to the inherent flexibility provided by the Maui Pipeline, some Vector pipeline systems can operate with varying levels of line pack. Some of this variation could potentially be made more easily available for the purpose of balancing the imbalances that require the use of balancing gas. If this could be achieved worthwhile reductions in balancing gas costs could result.

2. Matters within Scope

MDL has carefully examined the objectives of the scope of the regulatory options put forward in the GIC paper. It considers that some of the objectives put forward have already been substantially met through action taken by MDL, others are in progress while most of the remainder can be implemented as far as the Maui Pipeline is concerned by means of MPOC changes.

¹ MDL Submission to Gas Industry Company on "Transmission Pipeline Balancing Options" 13 March 2009

² MDL Submission to Gas Industry Company on "Transmission Pipeline Balancing Options" 13 March 2009

Pipeline balancing supports both the line pack management required by a pipeline owner to supply contracted services to customers and the residual balancing function that compensates for accumulated operational imbalance caused by users. The first of these is a cost to the pipeline owner, while the cost of the second should be passed on to users.

As background to the discussion that follows, it is generally recognised that balancing for both the MDL and Vector pipelines insofar as it involves the purchase, sale and use of balancing gas occurs on the Maui Pipeline under the terms of the MPOC. Balancing gas is purchased via the BGX, in accordance with the SOPs. Cost allocation for balancing gas and peaking charges occurs in two stages: the first, involves allocation costs, in accordance with the MPOC, to Maui Pipeline Welded Points, including the TP Welded Points supplying gas to Vector pipelines; and the second, involves the allocation of the charges incurred at TP Welded Points via the BPP process set out in the VTC. It follows that with the exception of the BPP cost allocation process carried out by Vector under the VTC, changes to the current purchase, sale and cost allocation processes can be implemented by changing the MPOC or the procedures that occur under it.

The available means for making these changes are best examined under the three balancing gas headings used previously, which are:

- Sourcing and purchasing balancing gas.
- Balancing the pipeline.
- Balancing gas cost allocation.

To these we also need to add a discussion of governance.

Sourcing and purchasing balancing gas

As can be seen in Table 1 below, the introduction of the Balancing Gas Exchange by MDL already achieves most of the objectives set out in the GIC paper. Scheduled enhancements to the BGX, which will be in place shortly, will meet the transparency objective and the need for reports on the Balancing Agent's financial position. The two outstanding issues are marginal pricing and acceptance of balancing gas services through TP Welded Points.

The economic justification for marginal pricing is accepted. However balancing gas purchase arrangements are currently based on prices quoted for delivery at different points in the day consistent with the ID cycle times. These prices can differ substantially from cycle to cycle as the willingness of suppliers to supply balancing gas at a particular time in the day varies. Prices for the last cycle of the day tend to be less favourable. In essence the market runs on the basis of different products for each cycle. Marginal pricing would add a significant disincentive to taking balancing gas later in the day as the less favourable price would be reflected back through all sales or purchases on the same day, even if the market level was more favourable earlier on. MDL believes the best solution in determining balancing gas charges over a given day would be to use a weighted average price of gas actually purchased or sold. Suppliers would be paid the price they have bid.

The question of accepting balancing gas from suppliers on Vector pipelines is more complex. MDL believes that it can arrive at arrangements that will allow such suppliers to access the BGX. However there are a number of conditions that will have to be met before this is possible. In summary, these include establishing beyond doubt that a TP Welded Party's obligation to pay for cash outs is not



“limited recourse’ as has been claimed, the contractual standing and duties of the supplier on both pipeline systems, the supplier’s ability to offer confirmation that the service requested has actually been delivered, and reasonable progress on introducing MPOC changes along the lines discussed below under the heading of Balancing Gas Cost Allocation.

Table 1: Sourcing and Purchasing Balancing Gas	
Wide participation and competition	Achieved, except for balancing through TP Welded Points. This is under consideration.
Gas from cheapest source.	Achieved through BGX.
Acceptance of offers as late as possible	Achieved through BGX.
Marginal Pricing	Achievable but not recommended.
Flexibility of offer	Achieved through BGX.
Transparency of prices and GJ amounts.	In process of being implemented through BGX.

Balancing the pipeline

The task of balancing the pipeline is governed by the balancing gas SOPs. As previously noted in this paper, MDL has been carrying out an extensive review of these procedures, particularly in relation to the pipeline conditions that govern the decision to use of balancing gas or not. Instructions of this nature are must contain a number of compromises between different objectives. For instance there are potential conflicts between:

- Maximum use of line pack flexibility and optimal security or minimising excursions outside thresholds.
- Maximising tolerances and minimising socialised cost.

MDL’s review has incorporated a resetting of the Contingency Volume required to operate the Maui Pipeline as well as provisions designed to control drift in the pipeline line pack due to UFG and socialised gas. Emphasis has been placed on maximising the line pack flexibility available to pipeline users when pipeline conditions make this possible. As can be seen from Table 2, the set of revised SOP’s is capable of meeting the GIC paper’s objectives in this area. It is expected that the revised SOP’s can be released within a few weeks.

MDL is encouraged by the understanding shown in the GIC paper that any tolerances allocated should not exceed the inherent flexibility of the pipeline. Given this condition and the increasing number of welded points, the average tolerance allocated to each is likely to be small. MDL also believes that serious consideration needs to be given to the possibility that tolerances will not be needed at all. This view is contingent on the adoption of a back to back balancing system, which MDL supports, and the adoption of a set of Standard Operating Procedures that makes as much of the available pipeline flexibility available to users as is prudent.

Trading of tolerances is more difficult to support. While it ensures that any tolerances allocated are used more efficiently, it also ensures that any possible allowance for a “diversity” factor will have to be smaller. There will also be costs in modifying computer systems to keep a running track of where tolerances have been allocated if trading is to occur frequently. MDL sees little advantage in allowing tolerance trading as opposed to imbalance trading, which is already allowed for.



Table 2: Balancing the Pipeline	
Maximum use of line pack flexibility	Revised SOP's. May conflict with next two objectives.
Thresholds set to provide optimal security	Revised SOP's, May conflict with first objective.
Minimise excursions outside thresholds	Revised SOP's. May conflict with first objective.
Balancing gas purchased only to extent necessary	Current and revised SOP's
Requirement to use balancing market ahead of other sources	Revised SOP's
Socialised gas traded	Revised SOP's
Rules for management of line pack, fuel gas and excess UFG	Revised SOP's
Maximise tolerances while minimising socialised cost	These objectives conflict. See discussion of tolerance review.
Curtailement mechanism.	Current and revised SOP's

Balancing Gas Cost Allocation

Introduction of the back to back balancing cost allocation concept put forward in the GIC paper will require changes to the MPOC. MDL is currently working on a set of MPOC changes for release later in the year. However when implemented, they will meet the GIC paper's objectives in this area as can be seen from Table 3.

The change to a back to back balancing regime will result in the elimination of the need for the ILON process under section 12 of the MPOC as well as the need for the Incentives Pool. The method for handling peaking charges, which are currently collected through the Incentives Pool, will be re-evaluated. Provision will also have to be made for the Welded Party to Welded Party damages regime which is also currently handled through the Incentives Pool. The tolerances allowed to Welded Points will also be re-evaluated as part of this change.

Table 3: Balancing Gas Cost Allocation	
Back to back balancing	Requires MPOC changes
Price of gas reflected through to users	Covered by back to back balancing. MDL will require that an obligation to pay cash outs will not be subject to "limited recourse".
Reduction or elimination of socialised costs	Back to back balancing and tolerances review.
No profit or loss by TSO's	Current MPOC provision.
No penalties or added charges	Balancing Agent costs will be charged to the tariff. However a charge for the use of line pack may be required.
Provision of damages regime	Currently in Incentives Pool. Will need to be separately specified with back to back balancing.

While these MPOC changes will cover the balancing gas cost allocation to TP Welded Points, they will not cover the provisions for allocation of costs within the Vector system. As noted above, MDL does not consider it necessary to regulate for these changes to be made within the Maui Pipeline system even though regulation downstream may be preferred or required.



Governance

The GIC paper also has governance objectives. A description of the Balancing Agent’s role and authority and recovery of its costs can be incorporated in the MPOC. This should be done at the time the back to back balancing arrangements are put in place. The enforcement objective envisages the use of the GIC Rulings Panel for disputes. This possibility is under review by MDL, but even if it is incorporated in the MPOC it will only apply to disputes conducted under that agreement.

Table 4: Governance	
Transparency. Description of Balancing Agent’s role and authority	Would need to be inserted as an MPOC change
Enforcement	Adoption of GIC Rulings Panel for disputes would require an MPOC change

C. Options put forward in the GIC Paper

1. MDL preferences

The GIC paper presents considers four options for meeting its objectives, three of which involve regulation and the fourth, (the Contracts option), which relies on contracts negotiated between the pipeline owners. As noted above, MDL does not favour either of the Prescriptive Regulation options.

In particular the costs associated with the operation of a balancing Agent by the GIC in Prescriptive Option A merit careful consideration. While such an operation would reduce costs elsewhere, MDL considers that it would be extremely unlikely that a large proportion of of the estimated cost of this option would be offset by reductions in other tariffs. It should be noted that under current arrangements Balancing Agent activities are combined with other work. While someone must always be available to carry out these duties, there can be periods of several days when no balancing action is required.

Section B of this paper illustrates how the objectives set out in the GIC paper can largely be met through a combination of actions already taken or planned by MDL together with a programme of MPOC changes. MDL’s preference among the options put forward would be for the Contracts option, but a realistic view indicates that some regulation in covering carefully selected areas where an agreement cannot cover the issue. An example may be the disputes regime where a description of the Ruling Panel’s jurisdiction, remedies and enforcement system will require regulation. MDL notes that by virtue of the MPOC amendment provisions, unanimity is not required, (so that hold out risk is eliminated), and the GIC has a recommendatory role.

MDL’s has a strong preference for a programme of work in this area that remains flexible. The work programme set out in the following section should go a long way to meeting the objectives in the GIC’s paper., MDL sees no need or justification for further regulation where these objectives have been met. Where the objectives cannot be met, regulation targeted on the points at issue should be considered.

Over the remainder of this year MDL will also be discussing options for extended nominations with other industry parties. To the extent that these progress, further changes to the MPOC that will make the introduction of these easier will be considered.

2. Additional points for consideration

In Section 3 of its previous submission to the GIC on balancing options, MDL drew attention to a number of issues that arose when the Balancing Agent function was separated from the other functions associated with pipeline ownership. MDL believes these points are still valid. They include:

- The effect of balancing decisions on pipeline capacity and ability to complete transmission contracts.
- The interface between balancing arrangements and curtailment arrangements and the timing and staffing difficulties that may arise if these are handled by different parties.
- Legal responsibility and indemnification for balancing decisions.
- Costs.

MDL recommends that the points made in its earlier submission should be considered again before any regulatory decisions are made. In addition the difficulties involved in having a single balancing agent responsible for the operation of two pipelines should not be underestimated. Balancing policy and line pack management are closely associated with the ability to deliver the required pipeline capacity and with the transmission contracts entered into by the pipeline owners. It is possible to envisage circumstances where the needs of two different pipeline systems might conflict and a single balancing agent might have to take decisions that favour one party over the other. Consideration should be given to the handling of any resulting liabilities.

D. MDL Work Programme

MDL intends to:

- Improve and expand the information on balancing available on the BGX.
- Set out steps that will allow balancing gas suppliers located beyond TP Welded Points to supply balancing gas services to the Maui Pipeline.
- Issue revised Standard Operating Procedures that maximise line pack flexibility, and set rules for the management of line pack, UFG and any socialised gas.
- Develop MPOC changes that will allow the introduction of a back to back cash-out balancing regime and submit them in accordance with the MPOC change process.
- Develop MPOC changes that incorporate a description of the Balancing Agent's role and function into the MPOC.
- Consider the development of MPOC changes that would adopt the GIC rulings panel for the settling of disputes related to balancing.

In addition MDL will be continuing discussions with industry participants on the introduction of extended nomination options. If there is sufficient agreement for them to proceed, any necessary MPOC amendments will be prepared and submitted.



Format for submissions

Company Name: Maui Development Limited

QUESTION	COMMENT
Q1: Do you consider that the objective identified in section 2 is appropriate? If not, what other objective(s) would you propose?	Yes.
Q2: Do you agree that the scope of the proposed regulatory options for this paper identified in section 2.2 is reasonable? Are there any items that should be considered in the scope that Gas Industry Co has not identified? Alternatively, are there any items in the scope that Gas Industry Co has included that should not be included?	<p>MDL has argued in the past that the level of tolerances allowed for the Maui Pipeline is excessive and should be reduced. A discussion of tolerances is also necessarily part of a back to back balancing solution due to their influence on the quantity of socialised gas.</p> <p>As noted in the text of our submission, we would have preferred increased priority being given to the problems of D+1 allocation and extended nominations, both of which could have a substantial effect on balancing costs and balancing cost allocation.</p>
Q3: Do you consider that the evaluation criteria set out in section 3 are appropriate for evaluating options for pipeline balancing arrangements? If not, why?	Yes.
Q4: Do you consider that Gas Industry Co has correctly identified the need to consider the alternative options based on our conclusions from the consultation process outlined in section 4?	We would have preferred an approach that examined what could be achieved under the contracts option and which then resorted to regulation only for those areas, (if any), where a contracts solution was clearly inadequate.



QUESTION	COMMENT
Q5: Do you agree that the contracts based option identified in section 5 is reasonably practicable? If not, why?	Yes.
Q6: Do you agree that the prescriptive regulation option A identified in section 6 is reasonably practicable? If not, why?	No. Apart from our view that prescriptive regulation is generally inefficient, we note that this option is likely to be costly, and in our view much of the money being spent will not result in savings elsewhere.
Q7: Do consider that the outline of the prescriptive regulations in Appendix B is appropriate? If not, why?	No. We do not agree that prescriptive regulations are desirable or necessary.
Q8: Do you agree that the prescriptive regulation option B identified in section 7 is reasonably practicable? If not, why?	No. But we note that it is likely to be a lower cost option than Option A.
Q9: Do you agree that the participative regulation option identified in section 8 is reasonably practicable? If not, why?	It is the most practicable of the options that contemplate regulation. But see our views on Q.4
Q10: Do you consider that the outline of the participative regulations in Appendix C are appropriate? If not, why?	No. We believe these regulations need to be carefully evaluated in terms of the need to regulate for specific areas only.
Q11: Do you agree with Gas Industry Co's approach to evaluating the options identified as reasonably practicable in section 9? If not, why?	We believe the GIC's identification of the participative option as being the best of the regulatory options is appropriate. However we would prefer that any regulation that is shown to be needed be carefully targeted to the specific area where the arrangements are manifestly inadequate.
Q12: Do you consider Gas Industry Co's assessment of the options presented is fair and reasonable? If not, why?	We note that the low score given to the contracts option appears largely to result from uncertainty as to its result. The programme set out in this paper may assist in resolving some of the uncertainty.



QUESTION	COMMENT
Q13: Do you agree that Gas Industry Co has, through the evaluation of options, correctly identified the participative regulation option as its preferred option? If not, why?	We believe the participative option is the best of the regulatory options considered. Our overall preference is for the approach outlined in Q.4.
Q14: Do you agree with the next steps identified in section 11? If not, why?	Yes. Subject to our views that regulation should be proposed only in areas where it is necessary.

Optional questions	Comment
Appendix B: Outline of prescriptive regulations OQ1: Gas Industry Co is still considering whether the scope of the regulations for prescriptive regulation options A and B should include provisions for curtailment and damages. They are currently drafted in the outline for prescriptive regulation option A. However, Gas Industry Co seeks submitters' views on whether provisions for curtailment and a damages ³ regime should be included in the regulations or left to industry agreement and codes.	<p>In general, there needs to be a close link between balancing actions and curtailment options as the transition from one mode to the other can occur within a short period of time. The current pipeline balancing arrangements for the Maui Pipeline allow specifically for this transition.</p> <p>A damages regime is best thought of as a damages limitation regime as it removes the normal right to take legal action and replaces it with remedies that are strictly limited. Provision does need to be made for such a regime, either in regulations or the pipeline code.</p>

³ Where there is insufficient balancing gas available then the Balancing Agent could curtail users prior to a critical contingency being called, in order to endeavour to prevent a critical contingency. In this situation a well behaved user that is curtailed will want to claim for damages from the causers of the imbalance that lead to curtailment. Therefore curtailment and damage claims go together.



Optional questions	Comment
<p>OO2: If the scope of the regulations includes damage claims, the quantum of these can be determined through the dispute resolution process (by the Rulings Panel) or predetermined as 'liquidated damages'. Do you consider that the quantum of damages should be liquidated or are better determined by the Rulings Panel at the time of the claim?</p>	<p>We believe a liquidated damages regime would be preferable. The Rulings Panel might still be involved in assessing whether liquidated damages would apply.</p>
<p>OO3: In schedule 2, Base Linepack and Thresholds, Gas Industry Co has not yet determined a process for setting and revising this table. Do you have a view as to how this might be best achieved under the regulations?</p>	<p>This should be left to the pipeline owners as pipeline circumstances can and do change. (Use of compressors and flow rates have an effect for instance). Inflexibility in this area will lead inevitably to more restrictive limits as the limits imposed will have to apply to all possible circumstances.</p>
<p>Appendix C: Outline of participative regulations</p> <p>OO4: A design issue is how to define flexible linepack available to the Balancing Agent and ensure that this is a fair share of the flexibility available. In proposed regulation 5.f. Gas Industry Co has drafted it to be set as 'wide as practical' with any dispute to go to the dispute resolution process. An alternative would be to establish a special purpose process for establishing the flexible linepack. Do you agree with the current drafting, or would the alternative to create a special purpose process be more appropriate?</p>	<p>As wide as practical is a reasonable formulation. We think this should be left to pipeline owners. We note that setting pipeline flexibility available to users too widely can result in pressures at distant Welded Points falling below plant design levels, pressure at receipt welded points rising to the point where gas cannot be injected, and a generally increased likelihood of curtailment events. We wonder whether outside bodies are able to accept the responsibility for these events if they occur.</p>



Optional questions	Comment
OO5: The outline of regulations has been drafted to include tolerances. Do you consider tolerances should be included?	Our preference would be for no tolerances, given the introduction of a back to back balancing regime and action to increase the flexibility available to users as much as practical.