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Dear Ian

## **Maui Pipeline Change Requests by Maui Development Limited**

### **Introduction**

1. Mighty River Power welcomes the opportunity to respond to the Gas Industry Company's (GIC) draft recommendation on the Maui Pipeline Operating Code (MPOC) Change Request as proposed by Maui Development Limited (MDL) dated 17 December 2009. No part of this submission is confidential and Mighty River Power is happy for it to be publicly released.

### **Comments**

2. As we stated in previous submissions the MDL change request is particularly complex given that it includes a number of proposed changes relating to pipeline balancing together with a range of unrelated issues. We therefore appreciate the difficulty the GIC had in determining its initial position on this change request. We do not however support the GIC's recommendation to approve this change request.
3. Mighty River Power shares many of the concerns that the GIC has expressed in its draft recommendation on this change request as well as many of those expressed by the gas industry in general. These concerns include, but are not limited to, increased shipper risk in managing the changes to the balancing gas arrangements, the lack of detail on how operational gas will be dealt with by the balancing agent and the implementation costs which could be significant. It is therefore disappointing that Maui Development Limited (MDL) has, following industry feedback in the form of written submissions and the output from their workshop on 1 April 2009 decided to make only minor drafting changes to its original change request.

4. The change request clearly includes a number of principles that have been agreed by the industry including a move to back to back balancing. These principles were however agreed within a package of measures that were designed to deliver benefits to the whole industry.
5. Further the proposals from the Industry Code Development (ICD) process and the GIC's own regulatory option were both based on a balancing regime that covered both the MDL and Vector pipelines. This change request does nothing to advance the coordination of balancing across both pipelines.
6. We accept MDL's position that it cannot implement changes that are outside its control such as a D+1 allocation process. There are however other matters that are common to both the ICD and the current draft Balancing Rules discussions that MDL has not included in this change request. In our opinion the exclusion of issues which MDL does have within its control and could have but did not include within this change request such as:-
  - Access to the Balancing Gas Exchange (BGX) by Vector shippers;
  - Title transfer of Gas within the incentives pool; and
  - Allowing material corrections to apply to cash outs.

negates the more positive aspects of this change request. This is particularly disappointing given the level of industry agreement on these issues.

7. We note that one of the principles within the GIC's evaluation criteria relating to production efficiency is to *"encourage participation and promote competition in balancing gas supply."* Mighty River Power wishes to participate in the BGX and has signed copies of MDL's Call and Put Gas Agreements but MDL has to date declined to execute these. In their letter of 23 March 2010 MDL suggests that shippers can submit a change request to allow parties on the Vector pipeline to participate in the BGX. We question why MDL did not simply include this change in its change request given the desire expressed not only by Vector shippers for such a change but also the inclusion by GIC of this requirement in its draft Balancing Rules.
8. The GIC's assessment of the change request has determined that if the request is approved and implemented then the risk for users of the Maui pipeline will increase and there will be some potentially significant implementation costs specifically with regards to IT changes to Oatis.

9. If user's risks increase then the most likely outcome is that retailers will have to allow for potential increases in their costs and therefore increase their own charges to their customers. The burden of these increased costs due to higher risk levels plus the implementation costs will ultimately fall on retailers' tariff customers.
10. Title transfer of gas purchased through the Incentives Pool has been a long standing issue for shippers who are asked to pay for balancing gas but who do not gain title to that gas. Mighty River Power like other shippers question the need to retain the Incentives Pool scheme, however given this change request includes its retention we believe that title to any balancing gas purchased should flow to the purchaser whether that be via cash outs or the Incentives Pool. At the workshop on 1 April MDL was asked to explain why title transfer was not included in its changes to the Incentives Pool arrangements and has not as yet provided a satisfactory answer.
11. Mighty River Power, like the GIC, questions why corrections for material errors in balancing gas allocations cannot be made. MDL's refusal to allow for this is particularly frustrating given that there is general agreement within the industry that these wash up arrangements would only be financial and would not include title transfer of gas the cost of which would outweigh the benefits.
12. We note that the GIC has anticipated that the implementation costs of this change request could be significant. In particular the need for fundamental changes to Oatis is of concern. Given the GIC's current preference to introduce Balancing Rules under a regulatory regime. Mighty River Power would hope that prior to allowing any expenditure on Oatis associated with this change request that the GIC would assure the industry that such changes match the GIC's requirements under the Balancing Rules. It would be unacceptable to incur significant Oatis development costs twice, once for this change request and again shortly after to allow for the introduction of the Balancing Rules.
13. Mighty River Powers shares the GIC's concerns with regards to the lack of detail surrounding how the Balancing Operator will deal with operational gas and UFG as opposed to balancing gas transactions. Whilst it is likely that MDL will seek to reassure the GIC and shippers that these issues will be covered by a SOP we wonder if the solution to this problem is the development of a more formal Balancing Plan as envisaged by the GIC in its Balancing Rules.

14. We note that the MDL change request introduces the requirement for them to consult on the introduction or changes to Standard Operating Procedures (SOP). The change request does not include any reference to a third party arbitrator such as the GIC if users are opposed to the contents of a SOP. Without such a third party reference MDL could implement changes to the MPOC through their SOP process and bypass the more meaningful MPOC change request consultation process.
15. We fail to see any real benefits that would result from the introduction of a “Pay Now Dispute Later” arrangement. Given the intention appears to be to speed up the resolution of any disputes we would have thought the development of some form of binding disputes process with fixed time frames combined with penalty interest rates would be a better solution to these problems. The proposed change does nothing to improve the current incentives to resolve a dispute it simply moves the current incentive or lack of incentive from one party to another.
16. We note that the GIC in its draft recommendations mentions in passing the proposed change to section 12.7 of the MPOC that requires users to trend Running Operational Imbalance towards zero at all times. Whilst the GIC has not commented upon this we see from their submission and subsequent discussions with Vector Transmission that they have some serious concerns regarding the potential impact on this. Specifically Vector is of the view that compliance with this change will require them to operate their transmission system sub optimally, incur additional operating cost which they would in turn recover from their shippers.
17. Mighty River Power is not in a position to judge the validity of Vector’s concerns but would urge the GIC to resolve this issue, which may simply be a matter of interpretation, prior to making any final recommendation on MDL’s change request.
18. As stated in our previous submissions on both this change request and on the GIC draft Balancing Rules Mighty River Power would, in relation to the significant changes such as is being proposed both here in this MPOC change and the GIC’s proposed Balancing Rules, like to see a single comprehensive plan for the development of balancing arrangements.
19. MDL has in its letter of 23 March 2009 championed the incremental approach to MPOC changes but they have not to our knowledge shared their overall development plan for the MPOC, assuming they have one, with the industry.

## **Concluding remarks**

20. Mighty River Power is happy to support incremental changes to pipeline balancing through change requests both for individual one off improvements and as part of an overall development plan for the MPOC. It is therefore regrettable that MDL has chosen to submit a single change request that includes a number of complex, interrelated balancing matters together with a number of non balancing issues, that represents only a part of the development required to improve the MPOC. The intention is undoubtedly to move balancing in the right general direction but the net result as we see it is unsatisfactory with any benefits resulting from this change request accruing only to MDL.
21. A number of the changes as proposed within this change request have been debated by the industry both within the ICD process and the Balancing Rules discussions with the GIC. In our opinion MDL could as a result of the submissions process which includes a substantial level of agreement on the amendments required to the change request have made significant improvements to its change request. Had MDL made the requested amendments on which there was industry agreement then Mighty River Power would have been happy to support the change request.
22. Mighty River Power regrets that the change request as proposed by MDL has some serious flaws including a significant increase in risk to shippers whilst at the same time providing no additional balancing tools to assist shippers, particularly Vector Shippers in managing these risks. The change request may also result in significant implementation costs and balancing operator operational arrangements that could result in inefficient outcomes such as described in Examples 3 and 4 in Appendix C.
23. Section 43ZN of the Gas Act includes objectives such as seeking to exert sustained downward pressure on gas prices, minimise barriers to competition and to ensure risk in relation to security of supply, including transport arrangements are properly and efficiently managed by all parties. In Mighty River Power's opinion as described above the MDL change request is detrimental to each of these objectives when considering the industry as a whole.
24. Given this we would urge the GIC not to recommend approval of this change request.

25. If you would like to discuss any of our above comments directly with Mighty River Power, then please contact me on 06 348 7926 or [jim.raybould@mightyriver.co.nz](mailto:jim.raybould@mightyriver.co.nz) .

Yours sincerely

A handwritten signature in black ink that reads "Jim Raybould". The signature is written in a cursive style with a horizontal line above the first few letters of "Jim".

**Jim Raybould**  
Retail Gas Operations Manager