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Dear Ian

Review of Gas Emergency Arrangements

1. Thank you for the opportunity to make a submission on the Gas Industry Co Consultation Paper *"Review of Gas Emergency Arrangements"* dated July 2006 ("Emergency Arrangements Paper").
2. No part of this submission is confidential. Mighty River Power would be happy for our submission to be made publicly available.

Mighty River Power's views

3. As a general comment, Mighty River Power supports the Gas Industry Co's approach to gas emergency arrangements detailed in the Emergency Arrangements Paper.
4. We agree that the mechanism to implement arrangements for emergency or contingency situations must be mandatory. However, we are reluctant to support a rules based approach without exploring further the possibility of a pan-industry approach.
5. We acknowledge that there have been difficulties in the past in gaining consensus in the gas industry. However, we consider that the co-regulatory model is prefaced on the basis that where possible a pan-industry approach should be preferred. Accordingly, although there has been difficulty reaching consensus in the past, the Gas Industry Co's regulation making powers should provide an incentive for parties to reach a consensus. Therefore, Mighty River Power considers that a pan-industry approach should be pursued, on the basis that the new regulatory environment will, hopefully, make agreement a realistic option. We acknowledge that, should a pan-industry approach fail rules will be necessary.
6. We also note that we do not share the Gas Industry Co's Commerce Act concerns. We acknowledge that clearance/authorisation may possibly be necessary under sections 66/67 Commerce Act. However, we do not consider this is a great risk. Primarily because any prospective emergency arrangements should be both: consistent with a pro-competition framework and support security of supply objectives (an acknowledged public

benefit) – if it transpires that the Commerce Commission are concerned about prospective arrangements we have failed to produce an arrangement that meets these objectives.

7. Mighty River Power's responses to the specific questions in the Transmission Consultation Paper are provided below.

Answers to GIC Questions

Q1 Do you agree that mechanisms to implement arrangements for emergency or contingency situations must be mandatory?

8. Yes.

Q2 Do you agree Gas Industry Co has identified the most likely alternatives for mechanisms to implement arrangements for emergency or contingency situations?

9. Yes.

Q3 Do you agree with Gas Industry Co's analysis of a Pan-Industry Agreement as a mechanism to implement arrangements for emergency or contingency situations?

10. We acknowledge that attempting to reach pan-industry agreement is likely to be difficult. We consider that the Gas Industry Co has overstated the Commerce Act risks (see above).

Q4 Do you agree with Gas Industry Co's analysis of rules or regulations as a mechanism to implement arrangements for emergency or contingency situations? If not, please explain.

11. Yes. Mighty River acknowledges that rules may be necessary if a pan-industry approach fails. As stated above we are hopeful that that a pan-industry approach may be successful due to the incentives provided by the co-regulatory model. Nonetheless, if such an approach were to fail we support a rules approach, on the basis that the following principles are accepted:

- The input of industry participants is considered to the same degree in the rules and regulations approach as it would be under a pan-industry agreement.
- The only material difference between the pan-industry approach and the rules and regulations approach is the method of enforcement.

Q5 Do you believe the gas emergency arrangements are most appropriately implemented by rules or regulations recommended to the Minister of Energy? If not, please explain.

12. We prefer a pan-industry approach backed up by a rules based approach as discussed above.

Q6 Do you agree with Gas Industry Co's analysis of the framework design for emergency management arrangements? If not, please explain.

13. Yes.

Q7 Are there any other principles you believe should be included? If so, please provide details of those additional principles.

14. The following should be added to the framework:

- Clear lines of communication between those issuing and receiving instructions during an emergency;
- Clear lines of communication between the emergency operator and civil defence emergency management groups

Q8 Do you agree with Gas Industry Co's approach? If not, please explain.

15. Yes.

Q9 Do you agree that the gas emergency arrangements should be progressed now, rather than waiting for completion of the wholesale market review?

16. Yes.

Q10 Do you agree that the current definition of "Gas Contingency" should be amended? If not, please provide reasons.

17. Some guiding principles:

- The definition should refer to a generic "emergency operator" rather than a specific company;
- The definition should not be too prescriptive. An over prescriptive definition may not consider all possible scenarios and unnecessarily limit the emergency operator's ability to respond.

Q11 If you agree that the definition should be amended:

(a) do you agree that an 'effects-based' decision is most appropriate?

(b) do you have any suggestion as to a basic operational minimum level to underpin the definition?

(c) what, if any, degree of discretion should there be to determine that a Gas Contingency has occurred?

(d) how would you define "Gas Contingency"?

18. In our view an "effects based" decision is appropriate but would only be of value to industry participants if they could see how the "effect" is tracking. For example being able to see how linepack is tracking in real time plus a forecast of linepack under different supply/load scenarios.

Q12 Do you consider there should be a separate definition for regional and national contingencies, or some other split? If yes, please indicate how and why (including draft definitions)

19. Yes. A regional contingency is usually a pipeline contingency but a national contingency may also be a gas field contingency. The response to each is usually different.

Q13 Do you agree that the current definition of "Transmission System" should be amended? If not, please provide reasons. If yes, please provide a draft definition.

20. Yes. The operatorship should not belong to a specific company.

Q14 Do you agree that the current definition of "NGC Transmission" should be replaced with a more generic definition of "System Operator" (or similar) as proposed?

21. Yes.

Q15 Do you agree with the scope of the proposed obligations to be imposed upon industry participants? If not, please provide reasons.

22. Yes.

Q16 What, if any, other carve-outs to the proposed obligations of industry participants do you believe are necessary?

23. Some gas industry participants receive binding instructions from other parties, for instance, the electricity system operator. The emergency operator should be in communication with these parties to ensure conflicting instructions are not given.

24. Industry participants should not be required to comply with instructions from the EO if those instructions may risk personnel safety or plant integrity.

Q17 Do you agree with the proposed approach to the liability of industry participants? If not, please provide reasons.

25. Yes.

Q18 Is Gas Industry Co's belief that the proposed gas emergency arrangements will not require significant additional processes and systems to be developed correct? If not, please explain.

26. We agree that it's unlikely but it's difficult to confirm this prior to seeing the arrangements.

Q19 Do you agree that any gas emergency arrangements should be consistent with the processes set out in the MPOC in respect of contingency and emergency situations? If not, please indicate your preferred approach and reasons.

27. No. The MPOC favours legacy Maui gas over all other gas in the pipeline. It is not appropriate to favour one party over another based on the location of their field in contingency situations.

Q20 Do you have a preference for the point at which MPOC is superseded by the gas emergency arrangements (e.g. when Phase 2 commences under NGOCP?)

28. The commencement of phase 2 seems logical because this is when instructions (e.g. to shed load) are given.

Q21 Do you consider the Emergency Operator should automatically be the technical/system operator of the transmission system or an independent person? Please provide reasons for your views.

29. The technical/system operator should be the EO because they have the best experience in managing contingency situations.

Q22 Do you believe the CCT should be maintained or that the Emergency Operator, or other person, should undertake that role? Please explain your reasons.

30. The EO should fill the Contingency Communications Team role because they should have the best experience in managing contingency situations.

Q23 If you wish to retain the CCT, do you believe its current make-up is appropriate?

31. See Q22. The communication roles are appropriate.

Q24 What other changes, if any, would you make to the CCT role? Please explain your reasons.

32. The EO and CCT should have lines of communication open with other civil emergency response units (e.g. in the event of natural disaster).

Q25 Do you agree with the scope of the proposed powers to be given to the Emergency Operator? If not, please provide reasons.

33. Yes.

Q26 Do you agree with the proposed approach to the liability of the Emergency Operator? If not, please provide reasons.

34. The EO should also be required to act impartially when giving directions.

Q27 Do you agree that the declaration process under the gas emergency arrangements should be more certain (as proposed)? If not, please indicate your preferred approach and reasons.

35. The focus should not be on achieving absolute certainty as this may constrain the EO's ability to act. The preferred approach is for the EO to provide "guidelines" which are as narrow as possible and provide industry participants the ability to track how the

transmission system is performing against those guidelines via real time website or something similar. It is of no benefit having increased certainty if there is no ability for industry participants to measure how the pipeline is performing.

Q28 Do you agree that the process for moving between phases is currently clear/definite? If not, please indicate any proposed changes.

36. Clear guidelines should be provided which can be tracked.

Q29 Do you agree that all industry participants (and other affected entities, such as major plant owners/operators) should be obliged to comply with directions from the Emergency Operator? If not, please provide details of reasons and any other proposed alternatives for providing certainty.

37. Yes subject to comments in Q16.

Q30 Do you consider there is any merit in a two-stage approach, with stage one allowing for voluntary response and stage two imposing binding instructions? If yes, why?

38. No. First, it is unlikely that many parties would respond because each party should be acting according to their own economic interests prior to any call for voluntary responses. It doesn't make sense for parties to voluntarily change their behaviour from one which is optimal as it's unlikely they will recover their loss. Second, it will make the EO job more difficult because they will need to track the behaviour of voluntary reductions (and the reducing parties may well change their mind). Third, if parties wish to change their behaviour it is likely this will occur once the initiation phase 1 is announced anyway.

Q31 Should the Emergency Operator be required to maintain a detailed load shedding plan? If so, should all (relevant) industry participants be required to provide detailed supply, demand and load shedding information to the Emergency Operator?

39. Industry participants should provide load shedding profiles for plant. The EO (if Vector takes this role) should have detailed demand and supply information already.

Q32 Do you agree with the proposed obligations in relation to alternative gas suppliers? If not, please provide reasons.

40. Yes.

Q33 Do you agree that a back up/reserve market is not merited? If not, please provide reasons.

41. Yes for the reasons provided in the paper. It doesn't make sense to pay parties for reserve generation if a response is compulsory.

Q34 Do you agree that the Emergency Operator should have the ability to direct the supply of non-specification gas? If not, please provide reasons.

42. No. The EO should not have this power. The EO is experienced in managing outages but is not necessarily knowledgeable of the affect non-specification gas has on different plants or appliances. Each plant and appliance has different tolerances to different contaminants. The risk to plant is far too high. The EO cannot be indemnified against directing non-specification gas.

Q35 Do you agree with the factors that an Emergency Operator must have regard to in making any such direction? If not, please provide reasons.

43. Not Applicable.

Q36 Are there any other factors the Emergency Operator should have regard to in making any such direction? If so, please detail those additional factors.

44. Not Applicable.

Q37 Do you agree with the proposed approach to restoration? If not, please provide reasons.

45. The EO should not be aware of contractual entitlements.

Q38 Do you have a view on guidelines for establishing a restoration table? Please specify.

46. Restoration should favour those who acted first to reduce load.

Q39 Do you agree that a post-contingency formal reconciliation process is appropriate? If not, please provide reasons.

47. Yes.

Q40 Do you have any comments on the proposed groups of types of communications and related obligations? Are there any other communications protocols/information flows which you consider should be taken into account as part of this review?

48. No further comments.

Q41 Do you agree with the proposed treatment of review, testing and documentation obligations under the NGOCP? If not, please provide reasons. If so, do you have any specific suggestions for how these should be dealt with?

49. A post-contingency review should include a review of the EO's instructions (given their binding nature).

Q42 Please provide any comments on how best to set line pack limits and to review these over time.

50. Take advice from Vector Transmission.

Q43 Do you have views as to the appropriateness of any particular compliance regime? Please specify.

51. We contract based dispute resolution backed up by court processes.

Q44 What is your view of WMWG's comment on the Farrier-Swier Consulting recommendations?

52. Agree that a "fit for purpose" wholesale gas market is a difficult proposition and that another approach should be taken.

Q45 Do you agree the ex post fair price determination is a suitable model for developing emergency pricing? If not, please provide a description of your preferred approach to emergency pricing.

53. The following factors need to be considered:

- The lack of a fit for purpose gas market means there isn't an immediately obvious solution to price determination.
- The level of volatility where there is no market (i.e. New Zealand) may be negligible (so why would one emergency event be priced differently to another? and therefore why can't a price be determined and known prior to an emergency event?)
- There has been some discussion that electricity prices should be used for determining emergency gas pricing. Electricity prices in the long run need to be high enough to cover long-run marginal cost including the cost of capital. Emergency gas pricing should compensate for gas foregone but should not compensate for return on capital. Transco's emergency pricing does not compensate for return on capital.
- Emergency pricing should ensure appropriate behaviour. In section 9.29 of the Emergency Arrangements Paper the GIC states that in the UK emergency curtailments give rise to trades at the 30 day average of the system average price (SAP). In September 2005 Ofgem accepted a code modification (Uniform Network Code modification proposal 044) proposed by Transco changing this. The issue with the SAP was that it was not high enough to ensure appropriate responses between the time when the emergency was announced and when the first load shedding direction was provided. Some parties paid more for gas than the SAP and therefore had the perverse incentive to use more gas when an emergency was first announced because they would then be required to pay for shortfall at the cheaper SAP.

Q46 Do you agree these are a comprehensive set of principles and objectives? If not please provide your augmentable list(s) and reasoning.

54. Other principles:

- Ensure emergency pricing promotes appropriate behaviour during a contingency

Q47 What is your view of the line pack being notionally allocated across shippers in proportion with their nominations? If you disagree, what would be your preferred approach and why?

55. Conceptually reducing nominations and creating a mismatch seems more aligned to processes in the MPOC than allocating linepack although both methodologies can have the same effect.

Q48 In the absence of a transparent, short-term market for gas in New Zealand, what is your view of using an independent expert to set emergency prices ex post?

56. See Q45. Given the arguments for pricing in the NZ "gas market" having low volatility, thought should be given to whether simply setting a price or using gas pricing in a publication (e.g. the energy data file) as a low cost and low hassle solution.

Q49 If you disagree with the use of an independent expert, what should be used as the basis for determining emergency gas prices and how is this superior?

57. See Q49.

Q50 In the event of a pipeline interruption, how do you view the pro rata allocation of line pack among shippers as a means of consistently applying the emergency pricing framework? If you disagree, what alternative arrangement would you suggest and why?

See Q47.

Q51 Do you agree that for an emergency pricing framework to operate in a low-cost manner it will be essential for the overall emergency plan to be a mandatory arrangement (irrespective of whether that is implemented by rules, regulations or a multilateral contract)?

58. Yes.

Q52 What is your view of requiring parties to endeavour to settle their positions in the first instance by trading among themselves?

59. It depends on whether the emergency price for having a short position is different to the emergency price for having a long position (as is now the case in the UK). If the prices are different, parties should not be required to settle positions because this would undermine the principle of the separate pricing concept.

60. If the emergency price is the same the answer is less clear but it may be the case that the emergency price may be a more or less favourable outcome than trading out of a position. It is difficult to say at this stage.

Q53 Do you agree that there should be a limit below which parties are not able to enter the emergency pricing framework?

61. No. All parties should have appropriate incentives.

Q54 What is your view of the price determination process? Do you agree that using a desktop study is the best approach?

62. Emergency payments should be a function of the emergency price and each party's mismatch position and nothing else. No other information or data should be needed or required.

63. Enabling parties to present evidence will be costly, lengthy and will open the path to litigation.

64. Further to Q45 the GIC should not discount setting emergency prices ex ante.

Q56 What is your view of the appropriate body to undertake the role of determining emergency pricing whilst keeping the costs to a minimum?

65. The GIC.

Concluding remarks

66. If you have any queries regarding Mighty River Power's submission, or would like further information, please do not hesitate to contact either me (on 09 308 8260) or Duncan Jared (on 09 308 8290).

Yours sincerely

Steve Rawson

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