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Dear Nicole

Reconciliation of Downstream Gas Quantities

Introduction

1. Thank you for the opportunity to make a submission on the Gas Industry Company's (GIC) consultation paper entitled "*Reconciliation of Downstream Gas Quantities*" dated 11 January 2007 (Reconciliation Paper). No part of our submission is confidential and we are happy for it to be made publicly available.
2. Mighty River Power congratulates the GIC on a comprehensive and well considered discussion paper.

Mighty River Power's views

Q1: Do you agree with the definitions adopted by Gas Industry Co in this Discussion Paper? If not, what do you suggest?

3. Yes.

Q2: Do you agree with the proposed Regulatory Objective for downstream reconciliation? If not, what do you think would be a more appropriate regulatory objective?

4. Yes.

Q3: Do you agree with Gas Industry Co's preferred approach towards standardised file formats? If not, how should it be improved?

5. Yes. We agree that the Electricity Standing Data Formats Group has worked well in the electricity sector. It therefore makes sense to develop a Gas Data Formats Group with an analogous function.
6. We also suggest that the group's function extend to other gas industry required formats including; switching; registry; retailer/distributor owner transfers; and retailer/GMS owner transfers.

7. However, we do note that there is a lack of clarity in the Reconciliation Paper as to the process by which the Board will approve file formats (see Reconciliation Paper paragraph 6.28). We request that the GIC clarify how it considers consultation with industry participants will take place with respect to file formats.

Q4: Do you agree with the proposed estimation accuracy criteria and proposal to require normalisation of data? If not, why not?

8. We consider that the proposed limit of +/-2% will prove too tight and is therefore not warranted in a wash-up regime. We consider 15% would be appropriate and consistent with electricity industry practice.

9. Normalised data should be required for all but TOU data. A standardised methodology for historic estimates using seasonality would be preferred.

Q5: Do you agree with the proposed minimum meter reading requirements? If not, why not?

10. We consider the proposed criteria a step in the right direction but would prefer that it align with the electricity industry – i.e. the EGCC Code of Practice requirement that retailers read all meters at least 4 times a year.

Q6: Do you consider the 10TJ threshold for allocation groups 1 and 2 should be reviewed? If so, do you have any information that would assist Gas Industry Co to perform this review?

11. We would prefer that the current 10TJ threshold remain and that it is complied with. Our understanding is that presently the 10TJ threshold is not being complied with.

Q7: Do you agree with the proposed process for the calculation and publication of loss factors appropriate? If not, how should it be improved?

12. Yes. However, with global reconciliation, loss factors become less relevant.

Q8: Do you consider that the current month end timeframes for the provision and calculation of allocation information are appropriate?

13. Yes.

Q9: Do you consider transitional provisions and/or exemptions will be required prior to the central registry go-live date?

14. No.

15. The registry will enhance accuracy by removing uncertainty over ICP ownership, but this will only enhance the inputs to the proposed reconciliation system. Therefore, transitional provisions are unlikely to be needed for this purpose.

Q10: Do you agree with the preferred approach of implementing a mandatory requirement on all industry participants to submit accurate data and comply with all data submission requirements?

16. Yes.

Q11: Is Gas Industry Co's proposed regime for rolling 4 month (interim allocation) and 13 month (final allocation) revisions appropriate? Is the terminology ("interim allocation" and

“final allocation”) appropriate or would alternative terminology (e.g. “first revision” and “second revision”) be clearer?

17. Yes, the proposed regime for rolling 4 month (interim allocation) and 13 month (final allocation) revisions is appropriate.

18. We agree with the proposed terms.

Q12: Do you agree with Gas Industry Co’s proposed restriction of the correction process (i.e. limiting corrections to within one working day of publication and only if a manifest error is discovered)? If not, what alternative correction process do you propose?

19. In our view a one day cut-off is impractical because it may take weeks or months of analysis to detect a trend or error. We suggest that this is covered in the special revision provisions.

20. The definition of “manifest error” needs to be considered. We suggest that the definition be quantified and a factor of +-2% be applied.

Q13: Do you agree with the preferred approach of publishing gas gate, UFG and specified allocation information?

21. Yes.

Q14: Do you agree with the preferred approach of mandating the 1 month UFG global method?

22. Yes, we believe it is appropriate to include the entire volume of gas consumed at a gas gate. This would be consistent with electricity.

Q15: Do you agree that the mandatory downstream reconciliation arrangements should not include the day end estimated allocation service and month end monthly allocation service?

23. No. We believe that the day end estimated allocation service has value. Therefore, we recommend that the mandatory requirement that the allocation agent provide the day end estimated allocation service and the month end monthly allocation service remain. These services can be charged for separately on the basis of their individual use by industry participants.

Q16: Do you agree that Gas Industry Co should appoint the Allocation Agent using a service provider model similar to that used in the electricity industry? Do you agree that the initial appointment should be for a 5 year term?

24. Yes, a five year term would seem appropriate.

Q17: Is a pan-industry arrangement as described in this section the most appropriate alternative governance structure to the use of regulations and rules under the Gas Act? Which governance structures would you prefer (regulatory or pan-industry)?

25. In this instance we prefer a regulatory solution. We do not consider that it is likely that the industry will be able to agree on a pan-industry arrangement.

Q18: Should funding of the reconciliation arrangements be covered by a process detailed in the reconciliation arrangements (rather than, for example, by the levy)? Do you agree with Gas Industry Co's preliminary view that the arrangements should be funded by retailers according to the number of ICPs?

26. Mighty River Power agrees that funding of the reconciliation arrangements should be covered by the reconciliation arrangements.

27. Funding of reconciliation arrangements needs to be considered in two stages: setup costs and ongoing costs. In terms of allocating these costs, we consider that setup should be charged in proportion to participants' ICP market share, and ongoing costs on the basis of the number of gas gates being reconciled.

Q19: Do you agree with the proposed audit arrangements? If not, please specify which aspects of the proposed arrangements are inappropriate and how you consider they should be improved?

28. Yes.

Q20: Do you agree that the auditor should be excluded from coverage of the compliance regime (i.e. should compliance be only a contractual matter between Gas Industry Co and the auditor)?

29. Yes.

Q21: Are the proposed arrangements for Allocation Agent compliance appropriate? What do you think is a suitable liability cap for non performance?

30. Yes.

Q22: Do you agree that reporting of breaches should be voluntary for participants (not mandatory)?

31. Yes.

Q23: Do you agree that the Allocation Agent should have a mandatory obligation to report breaches and suspected breaches?

32. Yes.

Q24: Do you agree that all other persons (e.g. consumers, Gas Industry Co and auditors) should have the right to report a breach?

33. Yes.

Q25: Do you agree with the proposed time limit for reporting breaches?

34. Yes.

Q26: The preferred approach for the design of the compliance regime for reconciliation is similar to the compliance regime proposed for switching. Do you agree that the proposed compliance regime is appropriate? If not, how should the compliance regime be changed?

35. Yes. As a general comment we would expect that the GIC would at some stage take steps to merge all compliance regimes – this would increase efficiency.

Q27: Do you agree that there is a need to provide for special allocations? Do you agree with the proposed process for special allocations?

36. Yes, experience shows that special revisions should be infrequent, but will almost certainly be required.

Q28: Do you have any comments on the detail in Appendix D? Are there any additional matters that should be included in this framework?

37. The framework set out in Appendix D appears to capture the matters discussed in sections 6 to 10 of the Reconciliation Paper.

Q29: Do you agree that obtaining unanimous agreement will likely require seeking authorisation from the Commerce Commission of any pan-industry agreement on downstream reconciliation?

38. We consider that rules and regulations are the appropriate approach to the creation of the gas reconciliation regime. However, in terms of a pan-industry agreement, we don't consider that an authorisation from the Commerce Commission would be necessary.

Q30: Do you have any views on the feasibility of a pan-industry agreement? Would participants be willing to agree to a pan-industry agreement covering the measures proposed in section 11 of this paper (subject to any necessary approvals, including any necessary Commerce Commission or Ministerial approval)?

39. As previously stated, we don't consider a pan-industry agreement is a practical option in this case.

Cost benefit analysis

40. We provide the following general comments in respect of NZIER's cost benefit analysis framework:

- a. The pan-industry agreement is not a viable option in this instance; therefore it should not be considered further (including in a CBA).
- b. NZIER note that there are numerous combinations and permutations of the regulatory regime and pan-industry regime options, and concludes that it would be most pragmatic to bundle all the sub-options. We noted above that we consider that the pan-industry option should not be pursued. Instead we suggest that it be replaced with a variation on the regulatory option which perhaps encompasses the easiest to implement/"biggest bang for your buck" components of the regulatory option.

- c. In respect of the issue of wealth transfers, we consider section 43ZN and the GPS policy objective statement are inconsistent in terms of whether a consumer surplus or a total surplus test should be used in determining whether the GIC's proposal will produce a net benefit.

The GPS policy objective contains a number of considerations which on balance favor the application of a consumer benefit test. The key considerations are:

- *"to ensure that gas is delivered to existing and new customers in a[n] ... efficient, fair ... manner"* (overall policy); and
- *"barriers to competition in the gas industry are minimised for the long-term benefit of end-users."* (a specific outcome).

In our view the emphasis on customers, fairness, efficiency and the long term benefit of end-users favor the application of a consumer benefit test.

On the other hand, section 43ZN of the Gas Act does not contain the word fairness or the phrase "long term benefit of end-users". This creates uncertainty as to whether section 43ZN supports the application of a total surplus or a consumer surplus test.

Despite the uncertainty created by the differences between section 43ZN and the GPS policy objective, we consider that a consumer benefit test is appropriate – in other words, wealth transfers should be considered when determining whether a proposal produces a net benefit. We take this view because the interests of consumers underpin all the specific outcomes sought in section 43ZN.

Concluding remarks

41. If you would like to discuss this matter directly with Mighty River Power, please do not hesitate to contact either me (on 09 308 8202 or john.gilkison@mightyriver.co.nz) or John Candy (on 09 308 3783 or john.candy@mightyriver.co.nz).

Yours sincerely

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