



Vector Limited
101 Carlton Gore Road
PO Box 99882, Newmarket
Auckland, New Zealand
www.vector.co.nz
Corporate Telephone
+64-9-978 7788
Corporate Facsimile
+64-9-978 7799

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Ian Wilson
Chief Adviser Pipelines
Gas Industry Company
PO Box 10- 646
Wellington 6143

Vector's Submission on Statement of Proposal: Transmission Pipeline Balancing

1. On Gas Limited, Vector Gas Contracts Limited and Vector Gas Limited (Vector) welcome the opportunity to submit on the Gas Industry Company's (GIC) consultation paper, "Statement of Proposal: Transmission Pipeline Balancing".
2. We are pleased to see that the GIC is moving forward with the process and appears to be well positioned to make a formal recommendation to the Minister in the upcoming months. The continuing emphasis that the GIC is giving to the development of improved transmission balancing arrangements is appropriate given the importance of balancing as a key component of a successful open access regime.
3. Vector supports the GIC's decision to pursue the participative regulation option in parallel with the Industry Code Development (ICD) process.
4. Vector's focus in this submission is on providing detailed comments on the proposed draft rules. Our "marked-up" amendments are contained in Appendix B. We have also responded to the GIC's questions in Appendix A. As is evident, we agree in general with the balancing plan, notwithstanding that we have made a number of re-drafting recommendations.
5. Some of the draft rules will provide for inefficient and unfair outcomes that are not consistent with the attainment of the principal objective, especially in terms of the efficiency criterion. Accordingly, they need to be reformed. In particular, the proposed rules in relation to transmission service owners (TSO) indemnifying the balancing agent and paying for its establishment and ongoing costs are unfair and will result in inefficient outcomes. Likewise, rules 8 and 11 which impose obligations on TSOs with respect to balancing need to be changed because they are inconsistent with the operation of the transmission

system, especially with regards to the importance of maintaining a safe system. Further, we recommend that the purpose of the rules is changed to better reflect the Government's objectives for the gas sector.

6. Thank you for considering this submission. If you require further information please contact me on Tel 04 803 9036 or at john.rampton@vector.co.nz in the first instance.

Yours sincerely

A handwritten signature in black ink, appearing to read 'John Rampton'.

John Rampton
Manager, Industry Governance and Policy

Appendix A - Vector's Response to GIC's Questions

QUESTION	COMMENT
<p>Q1: Do you agree with Gas Industry Co's decision to pursue the ICD process? If not, why?</p>	<p>Vector agrees with the GIC's decision to pursue the industry code development (ICD) process. As we indicated in our August 2009 submission on transmission pipeline balancing we believe that a contracts based option is plausible.</p> <p>Our experience with the ICD process has been that industry participants have engaged effectively in recognising and considering the elements of a balancing regime that need to be addressed.</p> <p>Vector remains supportive of, and committed to, the ICD process. However, to give industry participants, the GIC and the Government the necessary surety that the ICD process can deliver, parties must be prepared to commit to the umbrella agreement and thereby be committed to the key set of deliverables.</p>
<p>Q2 Do you agree with Gas Industry Co's proposal to pursue the participative regulation option? If not, why?</p>	<p>Vector agrees with the GIC's proposal to pursue the participative regulation option as a backstop should the ICD process not proceed. Furthermore, we believe that the parallel process has encouraged industry participants to engage in the ICD process.</p> <p>Vector considers that the participative regulation option is preferable to the more prescriptive regulatory options canvassed for a number of reasons, including:</p> <ul style="list-style-type: none"> • It provides for greater industry involvement in the development of gas balancing arrangements, acknowledging the inherently complex nature of balancing practice;

QUESTION	COMMENT
	<ul style="list-style-type: none"> • The details of the balancing plan can take into account current industry practice in terms of the VTC and MPOC; • It allows for a more targeted and adaptable approach (particularly through the balancing plan) recognising the need for a mechanism to enable progressive development; • It provides for effective enforcement which will encourage compliance; and • As demonstrated by the GIC, it is potentially superior with respect to other options when assessed against a number of relevant criteria. <p>Despite its preference for the participative regulation option, if the rules are promulgated (based on the draft rules issued with the statement of proposal), Vector has a number of significant concerns. They relate to the TSOs obligations to appoint, fund and indemnify the balancing agent, however we also note that we have marked-up the draft rules to highlight other issues and necessary amendments. Our primary concerns are detailed below:</p> <p><i>Appointment of the balancing agent by TSOs (rule 28)</i></p> <p>Rule 28.1 requires TSOs to attempt to agree on the appointment of the balancing agent. There is no policy justification for adopting that approach for balancing. This requirement is inconsistent with the precedent that the GIC has established for other gas governance rules and regulations such as the appointment of the allocation agent under the Gas (Downstream Reconciliation) Rules 2008, and the critical contingency operator under the Gas Governance (Critical Contingency Management) Regulations 2008, as well as the other service providers under the Gas (Switching Arrangements) Rules 2008 and the Gas Governance (Compliance) Regulations 2008.</p>

QUESTION	COMMENT
	<p>Furthermore, by way of comparison, the Electricity Commission is required to appoint the service providers (such as the clearing manager) under the Electricity Governance Regulations 2003 (Part 2, regulations 30 and 33). Vector considers that this is an appropriate precedent for the GIC.</p> <p><i>Funding of the balancing agent by TSOs (rules 49 and 51)</i></p> <p>Rules 49 and 51 require TSOs to pay the development and ongoing costs, respectively, of the balancing agent.</p> <p>The balancing agent exists to resolve shipper imbalance. The beneficiaries from pipeline balancing are users and producers. Users benefit because there is more certainty that they can supply their customers in accordance with their expectations and agreements. Producers benefit because they can produce gas and associated condensate in many cases more smoothly. Given that these parties are the beneficiaries, and users are the causers of imbalance, it is both inappropriate and inefficient to assign the costs of providing the balancing service directly to TSOs.</p> <p>It would be more efficient and fair to allocate the costs, especially the ongoing costs of the balancing agent, in accordance with users' use of its functions rather than socialise its costs across all users through tariffs, which in any event may not be possible. In this regard, we note that such an approach would accord better with the GIC's own principles in setting its levy and the sets of guidelines prepared by the Auditor-General and Treasury for setting levies to cover service costs. Specifically, this approach would be consistent with:</p> <ul style="list-style-type: none"> • Economic efficiency – The funding structure which is used to fund the balancing agent should promote efficient market behaviour. A "user pays" approach is efficient because it helps create incentives which will encourage

QUESTION	COMMENT
	<p>more accurate self-balancing, and thereby minimise imbalance on the transmission pipeline systems;</p> <ul style="list-style-type: none"> • Beneficiary/causer pays - The costs of the development and ongoing administration of the balancing agent should be allocated in a way that reflects the cause of the problem being addressed by the agent and or the incidence of the benefits derived. Users cause imbalance and benefit from the pipeline being in balance. Consequently, users should pay for the costs directly, not through pipeline tariffs. More particularly, this principle would be advanced further if the users that caused the balancing agent to purchase balancing gas bore the costs of the agent in proportion to the scale and frequency of the actions the agent takes on their behalf; and • Rationality – Where the levies to recover the costs of the balancing agent are allocated to a participant class, there should be a relatively strong logical nexus between the participants on whom the levy is imposed and the cost being imposed through that levy. Clearly, the strongest logical nexus dictates that the users should bear the balancing costs directly. <p>Furthermore, we understand that the GIC has proposed that TSOs pay for the balancing agent's costs because the Commerce Commission made a draft recommendation in its input methodologies paper that the administration of balancing functions should be included in the regulatory ambit. The Commission reasoned that the administration of balancing is a service because pipeline balancing is critical to ensuring that the system is operated safely.</p> <p>Finally, Vector notes that it would not be administratively difficult to instigate a process through which shippers/traders would pay for the balancing agent's costs in accordance with</p>

QUESTION	COMMENT
	<p>the extent to which they cause the agent to take action.</p> <p><i>indemnifying balancing agent by TSOs (rule 29)</i></p> <p>Rule 29.1.2 proposes that the TSOs indemnify the balancing agent for any costs that it is unable to recover from users. This indemnity requirement should be removed. Instead, the rules should provide for a prudential requirement on users and potentially an indemnity from them if necessary. Users would have to demonstrate to the balancing agent that they can meet their financial obligations under the balancing rules.</p> <p>The prudential requirements in the Electricity Governance Rules (Part H <i>Clearing and Settlement</i>, 2,1.1 and 2.2) provide an appropriate ‘indemnity’ precedent for the balancing agent under balancing rules. In the electricity sector, a distributor or retailer (payers) cannot purchase electricity unless they provide the clearing manager (a service provider) with an acceptable prudential requirement. Those rules clearly state that the purpose of this requirement is to ensure that ‘payers can meet their financial obligations under the rules’.</p> <p>The rules authorise the clearing manager to require a payer to have an acceptable credit rating or provide any one or more of the following securities: cash deposit; guarantee; letter of credit from a bank; 3rd party guarantee; bond; hedge settlement agreement; or a security approved by the board (Part H, 2.2.1; 2.2.2 and 2.4).</p> <p>Any payer that defaults in payment for electricity (or goes into liquidation or enters into a creditors arrangement) is in default. In the case of default, the clearing manager is obliged to take reasonable steps to recover outstanding amounts and for that purpose has a right to call on the appropriate security provided by the payer (Part H, 7.4; 8.11; 9.1.2 and 9.4).</p>

QUESTION	COMMENT
	<p>In addition to the power to call on a security, the clearing manager may also apply a set-off against any debt owed by a payer against any invoice credit owed to that payer (Part H, 9.4.4).</p> <p>If the invoice is in dispute, and the matter cannot be resolved amicably, the clearing manager can refer the matter to the rulings panel for settlement. Pending the resolution of that dispute by the rulings panel, the payer must pay the invoice in full. Other affected parties must be notified of the dispute (Part H, 10.2 to 10.5).</p> <p>Vector considers that these processes would be ideally suited to the situation where shippers (and other users) do not pay in full the balancing agent the cash-out price for balancing gas under rule 6.2.2, or where they dispute their invoices or where their liquidity becomes an issue.</p> <p>The removal of the proposed TSO indemnity requirement and its replacement with prudential requirements, akin to those described above in the electricity sector, would better meet economic efficiency and equity criteria and accord with sound policy development processes. Specifically:</p> <ul style="list-style-type: none"> • An indemnity by the TSOs is inconsistent with the establishment of an independent stand-alone balancing agent. A key underpinning principle upon which the GIC has developed its proposal is that the balancing agent will be an independent agent that will buy and sell balancing gas on a non-discriminatory basis across users to maintain a balanced position. This is clearly evident in rules 14 and 15; and • An indemnity is inconsistent with the “causer-pays” principle. Users

QUESTION	COMMENT
	<p>(shippers/traders) cause imbalance. A “causer pays” approach, ensures that the incentives are placed on the correct parties to manage their positions better and improve the overall operation of balancing.</p>
<p>Q3: Do you agree that the draft rules adequately address issues with respect to residual pipeline imbalance? If not, why?</p>	<p>Vector has prepared a detailed “mark-up” of suggested changes to the draft rules in Appendix B. Notes explaining the reason for the suggested changes have been made on the more substantive matters. Other drafting changes are suggested for clarity, consistency and completeness.</p>
<p>Q4: Do you have any comments on the major operational provisions?</p>	<p>Note our significant concerns under Q2.</p>
<p>Q5: Do you agree with Gas Industry Co’s decision not to include curtailment, damages and tolerances? If not, why?</p>	<p>Vector believes the issues of curtailment and damages should ideally be addressed by the rules to enhance compliance by users.</p> <p>Disputes to the rulings panel would also be more appropriately contained within the rules. This would be consistent with the compliance regimes under the other gas governance rules and regulations in terms of the Gas Governance (Compliance) Regulations 2008. Now that the rulings panel has been appointed and has started to give rulings, it will enhance the panel’s enforcement credentials and overall creditability.</p> <p>Tolerances, however, are better provided for in the balancing plan. TSOs are best placed to develop tolerances for the balancing zones, consult on these and then have the GIC consider and approve them as part of the balancing plan. This approach offers more flexibility, and more importantly tolerances would be able to be changed through an amendment to the plan as opposed to rule changes.</p>

QUESTION	COMMENT
<p>Q6: Do you agree with the details of the balancing plan? If not, why?</p>	<p>Vector has noted some key assumptions under Q7 that should be specified in the schedule for inclusion in the balancing plan.</p>
<p>Q7: Do you have any other comments on any aspects of the proposal?</p>	<p>It is apparent that the Commerce Commission/Ministry of Economic Development has only considered this balancing issue at a high level. While they are aware of the GIC's proposals, including the appointment of an independent balancing agent, Vector does not consider that they are necessarily fully informed. For example, there is no consideration of the treatment of the potential liabilities imposed by the proposed requirement for TSOs to indemnify the balancing agent for un-recovered costs.</p> <p>Furthermore, until such time as gas transmission systems become formally regulated under the new regime, Vector will be subject to the CPI constraint on its transmission charges. Given the Commerce Commission's approach, to date, with respect to Vector, Unison and Transpower breaching their price paths, it appears that it would be extremely unlikely that the Commission would approve TSOs raising their tariffs to recover the development and ongoing costs of the balancing agent.</p> <p>Key assumptions</p> <p>The participative regulation option provides for the draft rules to set the framework of the balancing regime. The detail will be provided in the balancing plan developed by the TSOs and consulted on with shippers. Vector believes that for clarity and transparency, and as a means of ensuring that the objectives in section 43ZN of the Gas Act, the GPS and the purpose provision in rule 3 are fully enforced, the following assumptions should be specified in the schedule:</p>

QUESTION	COMMENT
	<ul style="list-style-type: none"> • A component of free balancing - The target linepack can be operated on a free balancing regime (effectively no balancing) - ie no charge to shippers which do not match their receipts with their deliveries except where the thresholds are exceeded; • Target linepack thresholds - The setting of the 'maximum practicable flexibility for managing linepack' thresholds (clause B; b (i) Schedule) can be set by the TSO as narrow as is reasonable taking into account (among other things) the physical constraints of the pipeline for the specific balancing zone; • Balancing Agent operating the BPP - The balancing agent can be appointed to operate the pipeline - particularly managing balancing (not just when the target linepack thresholds are exceeded); and • Safety – The TSOs do not have to consult the balancing agent when safety is in issue. The TSOs obligation of cooperation and facilitation (rule 11.1.1(c)) and coordination (B, b Schedule) is not subservient to the balancing agent. The TSO's only obligation is to <i>advise</i> the balancing agent of a safety issue.

QUESTION	COMMENT
Q8: Do you agree with the proposed next steps? If not, why?	Vector supports the GIC moving forward expeditiously with the development of a balancing proposal. However, we would not like to see the GIC be deterred from making necessary changes to the draft rules because it was concerned that it would put at risk its timeframe for providing the Associate Minister of Energy with a statement of proposal. In this regard, we encourage the GIC to consider thoroughly the changes proposed by industry participants, and if needs be, go out again for a short period of consultation on those rules that have been materially changed.

DRAFT GAS GOVERNANCE (BALANCING) RULES

1. Title

These rules are the Gas Governance (Balancing) Rules 2009.

2. Commencement

2.1 Rules 6 to 11 and Part 2 come into force, if the industry body publishes a statement in the Gazette in accordance with rule 33.1 or 46.2, -

2.1.1 on a date that is before the 25th of the month, on the 1st day of the month following the month in which the statement is published; or

2.1.2 on a date that is ~~the 25th on~~, or after the 25th, of a month, on the 1st day of the 2nd month after the month in which the statement is published.
[Note: Is this approach necessary? Can the rules simply “go-live” on the date specified by the industry body in the notice it places in the Gazette? Further, a 1st of the month start date is also preferable from a BPP and OATIS perspective.]

2.2 The rest of these rules come into force on the 28th day after the date of their notification in the Gazette.

3. Purpose

The purpose of these rules is to achieve an efficient, unified balancing arrangement for managing imbalance in the transmission system. [Note: The rules go beyond managing imbalance as users are required to balance, first and foremost. Imbalance only arises if users do not balance. Further, it is important that the Rules reflect the demand following nature of the systems and an acknowledgment of this fact would be useful up front.]

4. Outline

4.1 These rules provide for –

4.1.1 the appointment of a single balancing agent and development of a unified balancing plan (to be approved by the industry body) by transmission system owners; or

4.1.2 in certain circumstances, the appointment of a single balancing agent and development of a unified balancing plan by the industry body; and

4.1.3 the powers and functions of the balancing agent to manage linepack in the transmission system and allocate gas and certain costs associated with that management; and

4.1.4 the rights and obligations of users and transmission system owners in relation to the balancing agent's functions.

Part 1. General provisions

5. Interpretation

5.1 In these rules, unless the context otherwise requires -

Act means the Gas Act 1992

allocated, in relation to a person other than the balancing agent, means allocated in accordance with the terms of a transmission system code or the Gas (Downstream Reconciliation) Rules 2008 and allocate, allocates and allocation has a corresponding meaning

balance has the meaning in rule 5.2

balancing action means ~~one or more transactions to sell~~ the sale or purchase of a quantity of balancing gas ~~committed at the same time for the purposes of managing linepack under regulation 15.1 or 15.2~~ sufficient to return linepack to the relevant threshold [Note: Suggested simplification of this definition, avoiding the issue of whether or not the transactions were committed at the same time.]

balancing agent means—

- (a) the person appointed as the balancing agent by the transmission system owners under rule 28.1.3; or
- (b) if subpart 2 of Part 3 applies, the person appointed as the balancing agent by the industry body under rule 42

balancing gas means gas that is ~~added to or removed from the transmission system (including through increase or reduction in output or input) for the purposes of managing linepack~~ sold or purchased as part of a balancing action [Note: Balancing gas appears only to be gas that is purchased or sold as part of a balancing action]

balancing market means the market established or ~~procured~~ accessed by the balancing agent to comply with rule 16.1

balancing plan—

- (a) means the plan –
 - (i) approved by the industry body under rule 32; or
 - (ii) if subpart 2 of Part 3 applies, set and approved by the industry body under rule 45; and,
- (b) includes any amendments to the plan approved under rule 36

balancing zone means a part of the transmission system defined as a balancing zone in the balancing plan

business day means any day of the week except—

- (a) Saturday and Sunday; and

- (b) any day that Good Friday, Easter Monday, Anzac Day, the Sovereign's birthday, Labour Day, Christmas Day, Boxing Day, New Year's Day, the day after New Year's Day, or Waitangi Day are observed for statutory holiday purposes; and
- (c) any other day that the industry body has determined not to be a business day as published by the industry body

cash-out price means the price set by the balancing agent under rule 20.1.2 for ~~the costs associated with~~ the sale or purchase of balancing gas

clearing price means, -

- (a) in relation to the purchase of balancing gas by the balancing agent in a **single** balancing action, ~~means~~ the highest sum of—
 - (i) the offer price for any balancing gas accepted in that balancing action, plus
 - (ii) any ~~costs of~~ transmission charges payable by the balancing agent to deliver such of that balancing gas ~~by the balancing agent~~ to the reference location; and
- (b) in relation to the sale of balancing gas by the balancing agent in a **single** balancing action, ~~means~~ the lowest sum of—
 - (i) the offer price for any balancing gas accepted in that balancing action, less
 - (ii) any ~~costs of~~ transmission charges payable by the balancing agent to deliver such of that balancing gas ~~by the balancing agent~~ to the reference location.

commencement date means the date referred to in rule 2.2

cost, in relation to allocation of balancing gas cost, includes allocation of the proceeds of sale of balancing gas] [Note: What costs are users liable for in respect of balancing gas, in addition to the cash-out price? If users are not liable for additional costs, suggest this definition is deleted. Also, this definition is somewhat vague and appears incomplete.]

directly managed, in relation to a balancing zone, means managed directly through the sale and purchase of balancing gas

go-live date means the day rules 6 to 11 and Part 2 come into force under rule 2.1

imbalance has the meaning in rule 5.2

indirectly managed, in relation to a balancing zone, means managed via management of a directly managed balancing zone, for example, by pressure regulator

~~information exchange means —~~

~~(a) any online open access transmission information system that is used to facilitate information exchange in respect of access to transmission pipelines; and~~

~~(b) includes OATIS, the online interactive open access transmission information system that is used to facilitate information exchange in respect of the open access regime under MPOC and VTC~~

industry body means—

- (a) the industry body approved by Order in Council under section 43ZL of the Act; or
- (b) in the event that the approval of the industry body is revoked under section 43ZM of the Act and no other industry body is approved, the Energy Commission to be established under section 43ZZH of the Act

information exchange means –

~~(a) any online open access transmission information system that is used to facilitate information exchange in respect of access to the transmission system; and~~

~~(b) includes OATIS, the online interactive open access transmission information system that is used to facilitate information exchange in respect of the open access regime under MPOC and VTC~~

interconnected party means any person who is a party to an interconnection agreement with a transmission system owner

interconnection agreement means ~~any written or unwritten~~ agreement ~~or customary arrangement~~ between a transmission system owner and another person relating to the ~~connection of that person's pipeline to injection, taking, or flow of gas into or out of~~ the transmission system, ~~and the receipt of gas into and delivery of gas out of, the transmission system~~ [Note: This definition is too wide as currently drafted and may inadvertently catch distributors and shippers. Suggested amendments need to be read in conjunction with suggested amendments to “balance” and “imbalance” definitions, below.]

interconnection point means any point where —

- (a) ~~where~~ an interconnected party's pipeline connects to the transmission system; or
- (b) 2 parts of the transmission system inter-connect, as those points are identified on the map published by the industry body in accordance with rule 12

linepack means the quantity of gas in any part of the transmission system at any time

Maui Pipeline Operating Code or MPOC means the code, issued by the owners of that part of the transmission system identified as the Maui pipeline on the map published in accordance with rule 12, covering operation of the Maui pipeline, as amended from time to time

~~negative imbalance means an imbalance that decreases linepack~~

~~positive imbalance means an imbalance that increases linepack [Note: these definitions do not appear to perform any function.]~~

publish, in respect of information to be published by a person, means to make that information available on the person's website

reference location means the location or balancing zone used by the balancing agent to evaluate balancing gas offers ~~for~~ in respect of a proposed balancing action

shipper means a person who is a party to an agreement with a transmission system owner ~~to have gas transported through all or part of the transmission system~~ whereby the transmission system owner is required to receive from that person a quantity of gas at a receipt point and make an equivalent quantity of gas available to that person for delivery at a delivery point [Note: Strictly speaking, transmission agreements do not relate to the "transportation" of gas.]

target linepack, in relation to a balancing zone, means the target quantity of linepack for the balancing zone as specified in or determined in accordance with the balancing plan

trader means a person who buys or sells gas within the transmission system

transmission system code means the rules of access to and use of a part of the transmission system, and includes MPOC and VTC

transmission system means the system of interconnected high pressure open access gas transmission pipelines depicted on the map published by the industry body in accordance with rule 12

transmission system owner means a person who owns all or any part of the transmission system

user –

(a) means –

(i) a shipper, or

(ii) a trader; or

(iii) an interconnected party; or

(iv) a transmission system owner in relation to –

(A) maintenance of the target linepack in any part of the transmission system owned by that owner; and

(B) its activities as a shipper, trader, or interconnected party; and

[Note: The definition does not take account of a TSO's consumption of gas, as TSO, on its transmission system. Vector is not currently a shipper on its own system in respect of its consumption of gas as TSO.]

- (b) does not include the balancing agent in relation to the performance of the balancing agent's functions.

Vector Transmission Code or VTC means the code, issued by the owners of that part of the transmission system identified as the Vector pipeline on the map published in accordance with rule 12, covering operation of the Vector pipeline, as amended from time to time.

5.2 For the purposes of these rules,

balance means –

in relation to -

- (a) ~~in relation to~~ a shipper, to ensure that the receipts and deliveries of gas allocated to the shipper under a transmission system code, in a balancing zone, match; and
- (b) ~~in relation to~~ a trader, to ensure that the quantities of gas purchased and sold allocated to the trader under a transmission system code, in a balancing zone, match; and
- (c) ~~in relation to~~ an interconnected party, to ensure that the same quantity of gas as ~~agreed or nominated and~~ scheduled under the terms of an interconnection agreement ~~with between~~ the relevant transmission system owner and the interconnected party is taken from or injected by that party into the transmission system; and [Note: Suggest deletion of reference to “agreed” from this definition as this may catch interconnected parties who play no active role in the scheduling of gas receipts and deliveries through their interconnection points (such as interconnected parties on the Vector system). Further, a full deletion will be necessary if the expectation is that the system will continue to be “demand following” and that Vector will not seek to curtail demand to only follow scheduled flows.]
- (d) ~~in relation to~~ a transmission system owner (other than in regard to its activities as a shipper, trader, or interconnected party), to ensure that the ~~actual~~ linepack in a part of the transmission system owned by that ~~owner~~person matches the aggregate of -
- (i) the target linepack; and
 - (ii) all other users' imbalances; and
 - (iii) any balancing gas allocated to the balancing agent under rule 19.3.

in the same part of the transmission system.

[Note: The definition does not take account of a TSO's consumption of gas, as TSO, on its transmission system. Vector is not currently a shipper on its own system in respect of its consumption of gas as TSO.]

imbalance means –

in relation to -

- (i) a shipper, ~~means~~ the amount by which receipts and deliveries of gas allocated to the shipper under a transmission system code, in a balancing zone, do not match; and
- (ii) a trader, ~~means~~ the amount by which the quantities of gas purchased and sold allocated to the trader under a transmission system code, in a balancing zone, do not match; and
- (iii) an interconnected party, means the amount by which the quantity of gas taken from or injected into the transmission system by that party differs from that ~~agreed or nominated and~~ scheduled under the terms of an interconnection agreement between the relevant transmission system owner and the interconnected party; and [Note: Suggest deletion of reference to “agreed” from this definition as this may catch interconnected parties who play no active role in the scheduling of gas receipts and deliveries through their interconnection points (such as interconnected parties on the Vector system). Further, a full deletion will be necessary if the expectation is that the system will continue to be “demand following” and that Vector will not seek to curtail demand to only follow scheduled flows.]
- (iv) a transmission system owner (other than in regard to its activities as a shipper, trader, or interconnected party), ~~means~~ the amount by which the ~~actual~~ linepack of a part of the transmission system owned by that person differs from the aggregate of:
- (A) the target linepack of that part of the system; and
- (B) all other users’ imbalances in that part; and
- (C) any balancing gas allocated to the balancing agent under rule 19.3; ~~and~~
- in the same part of the transmission system; and [Note: The definition does not take account of a TSO’s consumption of gas, as TSO, on its transmission system. Vector is not currently a shipper on its own system in respect of its consumption of gas as TSO.]
- (v) a balancing zone, ~~means~~ the aggregate imbalance of all users in that zone; and [Note: Should this be an “aggregate” or a “net” imbalance?]

~~(b) includes –~~

~~(i) a positive imbalance; and~~

~~(ii) a negative imbalance. [Note: These references in (b) do not appear to add anything; suggest these are deleted.]~~

Users’ obligations

6. Users’ obligation in relation to balancing

6.1 Subject to rule 6.4, a **user** must use reasonable endeavours –

6.1.1 to **balance** within each **balancing zone**; ~~or~~ and

6.1.2 if, despite paragraph (a), the **user** has an **imbalance** in any **balancing zone**, to return the **user's imbalance** to zero. [Note: A specification of the time by which these obligations must be performed, needs to be added.]

6.2 ~~Despite rule 6.1, if~~ a **user** has an **imbalance** in any a **balancing zone** –

6.2.1 the allocation of gas in the **transmission system** to the **user** is subject to adjustment to reflect any allocation of **balancing gas** by the **balancing agent**; and

6.2.2 the **user** is –

- (a) liable to pay the total **cash-out price** of any all **balancing gas** purchased by the **balancing agent** and **allocated** to the **user** in accordance with these rules; ~~or~~ and
- (b) entitled to receive the total **cash-out price** for any all **balancing gas** sold by the **balancing agent** and **allocated** to the **user** in accordance with these rules.

6.3 To avoid doubt, -

6.3.1 a **transmission system owner** (in its capacity as a user) is only required to ensure that ~~the actual~~ **linepack** matches the aggregate of target **linepack**, other **users' imbalances**, and any **balancing gas** **allocated** to the **balancing agent** under rule 19.3 in a part of the **transmission system** owned by that ~~transmission system owner~~ person; and [Note: A specification of the time by which this obligation must be performed, needs to be added. Also, the provision does not take account of a TSO's consumption of gas, as TSO, on its transmission system. Vector is not currently a shipper on its own system in respect of its consumption of gas as TSO.]

6.3.2 if 2 or more **transmission system owners** own a part of the **transmission system covered by the same balancing zone**, ~~they each~~ are shall (severally) –

- (a) ~~jointly responsible to~~ use reasonable endeavours to **balance** within that **balancing zone**; and [Note: Vector considers that it is inappropriate for liability to balance to be joint, as one TSO should not be liable for the performance of the other TSO's reasonable endeavours obligation, which will be particular to the circumstances of that TSO. Also, a specification of the time by which this obligation must be performed, needs to be added.]
- (b) ~~jointly be~~ liable or entitled, as the case may be, to be **allocated balancing gas** by the **balancing agent** [Note: Please specify the means of determining their respective liability/entitlement portions; TSOs should not be required to take credit risk on each other in relation to balancing gas liabilities.]; and
- (c) ~~jointly be~~ liable to pay or entitled to receive the **cash-out price** of any **balancing gas** **allocated** to them by the balancing agent

[Note: Specify the means of determining their respective liability/entitlement portions; TSOs should not be required to take credit risk on each other in relation to cash-out price liabilities.]

- 6.4 This rule 6 does not apply during any period where a critical contingency has been declared and not terminated under the Gas Governance (Critical Contingency) Regulations 2008. [Note: Does this rule apply to all of the transmission system or only those parts affected by a critical contingency?]

7. Users' obligation to provide information

- 7.1 A **user** must provide such information to the **balancing agent** as is reasonably necessary to enable the balancing agent to carry out its functions provided that such information is in the user's possession or can be obtained or derived by the user without unreasonable difficulty or expense, and the disclosure of such information to the balancing agent is lawful and not in breach of any duty of confidentiality owed by the user. [Note: Suggested amendments necessary to narrow the very wide scope of this rule.]

Transmission system owners' obligations

8. Transmission system owners' obligation to facilitate balancing

- 8.1 Each **transmission system owner** must use reasonable endeavours to ensure to the extent reasonably practicable that its operating procedures and contractual arrangements are consistent with ~~and do not unreasonably prevent users meeting performing~~ the obligation to **balance** in rule 6. [Note: This rule, as drafted, has significant implications for the nominations and flow to demand regimes operating under both transmission system codes currently. Vector considers that either this rule should be deleted (and that users simply have a reasonable endeavours obligation to balance) or the rule is qualified as marked.]

9. Transmission system owners to provide transmission system information

- 9.1 Subject to rule 9.2, Each **transmission system owner** must ensure that, if reasonably required by the **balancing agent** in connection with the balancing agent's performance of its obligations under these rules, any of the following information is made available to the **balancing agent** in relation to any ~~of the owner's~~ parts of the **transmission system** owned by the transmission system owner, whether via an **information exchange** or otherwise:

- 9.1.1 information about the threshold(s) specified in the **transmission system owner's** critical contingency management plan under the Gas Governance (Critical Contingency Management) Regulations 2008:
- 9.1.2 information about **linepack**:
- 9.1.3 information about the pressure at each of the measurement points specified in the **balancing plan**:
- 9.1.4 information necessary to confirm that **balancing gas** transactions have been carried out:

9.1.5 information about the **imbalance** in each **balancing zone** with a breakdown of the **imbalance** per **user** (in sufficient detail to enable the **balancing agent to allocate balancing gas** and cost under these rules):

9.1.6 historical **imbalance**, **linepack**, or pressure data:

9.1.7 metering (or other equipment) data on the amount of gas received into or taken from –

(a) each interconnection point (except if an interconnection point is covered by a single balancing zone); and

(b) each **balancing zone** (if there is no interconnection point between the zones):

9.1.8 the quantity of gas agreed between the **transmission system owner** and an **interconnected party**, or otherwise expected or scheduled, to pass–

(a) through each interconnection point (except if an interconnection point is covered by a single balancing zone); and

(b) between each **balancing zone** (if there is no interconnection point between the zones):

9.1.9 any notices issued in accordance with a **transmission system code** by the **transmission system owner**:

9.1.10 any other information reasonably requested by the **balancing agent** for the purpose of carrying out its functions under these rules. [Note: Suggested amendments necessary to narrow the very wide scope of this rule.]

9.2 The information described in ~~this~~-rule 9.1 must be the best information available (including real time information if applicable) that, in the particular circumstances, is in the **transmission system owner's** possession or can be obtained or derived by the transmission system owner without unreasonable difficulty or expense and the disclosure of such information is lawful and not in breach of any duty of confidentiality owed by the transmission system owner. [Note: Suggested amendments necessary to narrow the very wide scope of this rule.]

10. Transmission system owners to provide transmission services for balancing gas

10.1 Each **transmission system owner** must provide the **balancing agent** with transmission services for the transmission of **balancing gas** on ~~the following terms and conditions~~its customary terms and conditions provided that the balancing agent must be offered:

10.1.1 fully variable pricing: and

10.1.2 priority access to pipeline capacity not already committed, ~~(for example, to approved nominations):~~

no profile limits, (which includes no maximum daily or hourly quantity limits). [Note: This is not acceptable; Vector needs to agree maximum

hourly and daily gas quantities with all of its shippers of gas to ensure the safe and efficient operation of its transmission system]

11. Other obligations of transmission system owners in relation to balancing

11.1 Subject to rule 11.3, each~~Each~~ **transmission system owner** must –

11.1.1 to the extent reasonably practicable, cooperate with ~~and facilitate~~ the **balancing agent** in the performance of the balancing agent's functions with a view to minimising to help facilitate the balancing agent minimise the quantity of **balancing gas** sold and purchased through **balancing actions**, and ~~in particular by ensuring that none of the following actions by the transmission system owner cause~~avoid unnecessary or uncoordinated **balancing actions**; and – [Note: Vector's overriding concern is to provide transmission services to its shippers in compliance with the terms of the VTC and in accordance with its other existing contractual arrangements (not all shippers are subject to the VTC). None of these arrangements can be varied by Vector, unilaterally. And Vector's operating procedures are designed to deliver compliance with Vector's contractual obligations. Vector considers that either this rule should be deleted or the rule is qualified as marked.]

(a) ~~operation of compressors:~~

(b) ~~use of curtailment:~~

(c) ~~intervention for safety or maintenance; and~~

11.1.2 use reasonable endeavours to procure that~~give access to~~ the **balancing agent** is given reasonable access to any **information exchange** provided by the **transmission system owner** on ~~reasonable the information exchange's customary~~ terms and conditions and only for the purpose of performing its functions under these rules; and [Note: Suggested amendments necessary to narrow the very wide scope of this rule. TSOs may not be able to control whether or not the balancing agent is given such access, due to the need to take account of third party rights.]

11.1.3 ensure **users'** allocations of gas are adjusted to reflect allocations made by the **balancing agent** made under rule 19 and notified to the transmission system owner; and

11.1.4 **publish** –

(a) its compressor operation policy (if any); and

(b) any written operational communications between the **transmission system owner** and the **balancing agent** that impact on how the **balancing agent** carries out its functions. [Note: A specification of the time by which these obligations must be performed, needs to be added.]

11.2 [A transmission system owner may (at its sole discretion and subject to agreed conditions) agree in writing to give the **balancing agent** the right to control any compressor to assist ~~in~~ the **balancing agent** in carrying out its functions.] [Note: Vector's preference would be to delete this rule, as it "may" agree to such,

without the existence of the rule. However, if the rule is to remain, it should be amended to make it clear that Vector retains full sovereignty to its compressors and that it has absolute discretion over granting access to them. We also note that the Rules contain no provision for the passing on of costs associated with running compressors in a manner that is wholly or in part due to imbalance as opposed to normal transmission activity. Was this an inadvertent omission?]

- 11.3 ~~Nothing in this rule requires a~~ **transmission system owner** ~~to shall have no obligation to~~ take any action under these rules that would unreasonably interfere with the transmission of gas in a part of the **transmission system** ~~or which may cause the transmission system owner to be in breach of any obligation under its transmission system code or other contractual arrangements.~~ [Note: Suggested amendments necessary to reflect Vector's overriding concern to provide transmission services to its shippers in compliance with the terms of the VTC and in accordance with its other existing contractual arrangements.]

12. Publication of transmission system

- 12.1 No later than 5 **business days** after the **commencement date**, each person who owns any part of New Zealand's system of interconnected high pressure open access gas transmission pipelines must provide the **industry body** with the information specified in clause 1(2) of Part 5 of Schedule 1 of the Gas (Information Disclosure) Regulations 1997.
- 12.2 As soon as practicable after receiving the information described in rule 12.1, the **industry body** must consult with the persons who have submitted the information on a draft map depicting the **transmission system** for the purposes of these rules.
- 12.3 As soon as practicable after that consultation and no later than the **go-live date**, the **industry body** must **publish** a map depicting the **transmission system** and the balancing zones.
- 12.4 A **transmission system owner** must give notice to the **industry body** of any error in the information it has supplied to the industry body under rule 12.1, and of any ~~or~~ change in the boundaries of, and pipelines comprising, the **transmission system owner's** part of the **transmission system** made since the date it supplied the information to the industry body under rule 12.1, as soon as practicable after becoming aware of the error or change.
- 12.5 The **industry body** ~~may shall~~ amend ~~or and~~ update the boundaries of, and pipelines comprising, the **transmission system** in response to any notice given by a **transmission system owner** under subclause (4) and, ~~where applicable if necessary,~~ must **publish** an updated map depicting the **transmission system** as soon as is practicable following receipt of the information received under rule 12.4. [Note: This obligation should be mandatory and subject to a completion deadline, given the materiality of the definition of the transmission system.]

Part 2. Balancing

Balancing agent functions

13. Functions of the balancing agent

13.1 The primary functions of the **balancing agent** are to –

13.1.1 manage the **linepack** of the **transmission system** by –

- (a) buying or selling **balancing gas** to manage **linepack** in **balancing zones** that are **directly managed**, pursuant to rule 15.1; or
- (b) taking any other action provided for in the **balancing plan**, to **indirectly manage linepack** in **balancing zones** that are not **directly managed** [Note: We query why is there no compensation mechanism provided for in respect of these actions]; and

13.1.2 enter into transmission agreements in relation to the transmission of **balancing gas** to and from the **reference location**; and

13.1.3 **allocate balancing gas** and **cost** associated with each **balancing** action taken by the **balancing agent** in accordance with this Part; and

13.1.4 notify the relevant **transmission system owner** of any adjustments required to be made to **users'** allocations of gas in the **transmission system** to reflect allocation of **balancing gas** by the **balancing agent** in accordance with this Part.

14. Functions to be carried out independently

14.1 The **balancing agent** must carry out its functions under these rules-

14.1.1 Independently ~~and efficiently of any other functions carried out by that person~~; and

14.1.2 if the agent is, or is related to, a **user** ~~or transmission system owner~~, at arm's length from the other business operated by that ~~user or transmission system owner~~.

14.2 The **balancing agent** must use information provided to it under these rules only for the purpose of performing its functions under these rules and shall (except as otherwise required by these rules) keep such information confidential. [Note: The confidentiality of information in the balancing agent's possession should be recognised.]

14.3 The **balancing agent** must not perform any other functions in addition to the role of **balancing agent**, except with the **industry body's** prior written consent. [Note: The balancing agent should be required to obtain the industry body's written approval to the performance of any functions in addition to the balancing agent role.]

15. Management of linepack [Note: This mechanism does not seem to reflect the demand following nature of gas flows between the Maui and Vector pipelines, currently. It implies

that balancing gas will only flow if the balancing agent initiates the balancing action. Currently, the system does not operate in this way. If the flow of balancing gas is contingent on a balancing action being taken by the balancing agent, the method by which the pipeline is operated currently may need to change to a scheduled flow system an curtailments of demand will result.]

- 15.1** If the **linepack** of a **balancing zone** that is **directly managed** falls below, or in the **balancing agent's** reasonable opinion is likely to fall below, the lower threshold specified in the balancing plan for the balancing zone, if **balancing action** is not taken to fall below, the lower threshold specified in the balancing plan for the zone, the **balancing agent** must—
- 15.1.1** ~~endeavour to purchase sufficient gas to return the linepack to the threshold~~except as provided in these rules, take necessary balancing action; and [Note: The obligation to take balancing action should be mandatory and subject only to the exceptions provided in the rules (price caps).]
- 15.1.2** if necessary, ensure that a quantity of gas equivalent to the **balancing gas** purchased is ~~transmitted-delivered~~ to the relevant **balancing zone**.
- 15.2** If the **linepack** of a **balancing zone** that is **directly managed** exceeds, or in the **balancing agent's** reasonable opinion is likely to exceed, the upper threshold specified in the balancing plan for the balancing zone, if **balancing action** is not taken to exceed, the upper threshold specified in the balancing plan for the zone, the **balancing agent** must—
- 15.2.1** ~~endeavour to sell sufficient gas to return the linepack to the threshold~~take necessary balancing action; and
- 15.2.2** if necessary, ensure that a quantity of gas equivalent to the **balancing gas** sold is ~~transmitted-delivered~~ from the relevant **balancing zone**.
- 15.3** [If there is insufficient gas available for sale and purchase within the price thresholds specified in the balancing plan to return the linepack in a balancing zone to the relevant threshold, then the balancing agent must immediately notify the transmission system owner or owners who own the part of the transmission system covered by the affected the balancing zone.] [Note: TSOs should not have any liability to users for failure to perform their contractual obligations to the extent they are affected by the balancing agent's inability (or failure) to provide balancing gas.]

Balancing market

16. Rules for transactions relating to balancing gas market

- 16.1** The **balancing agent** must establish or procure the services of a market for buying and selling **balancing gas**.
- 16.2** The **balancing market** must be open to any person who –
- 16.2.1** has gas available for sale, or who wishes to purchase gas, no matter where on the **transmission system** the gas is made available or where on the **transmission system** the person wishes to take the gas from, so

long as the gas is able to be ~~transported to or from~~received at or delivered to the required **balancing zone**; and

- 16.2.2 meets ~~any~~all technical requirements relating to procurement of **balancing gas** specified in the **balancing plan**; and
- 16.2.3 meets and agrees to be bound by the reasonable terms and conditions for the sale and purchase of **balancing gas published** by the **balancing agent** under rule 18.

16.3 Subject to rule 17, the **balancing agent** must only purchase ~~or and~~ sell **balancing gas** through the **balancing market**. [Note: Why is this exclusivity required? Will this lessen competition in the balancing gas market?]

16.4 [Subject to rule 16.6, when purchasing **balancing gas** through the **balancing market** the **balancing agent** must –][Note: These requirements must apply equally, when transactions are undertaken off-market]

16.4.1 [accept offers to sell gas, or changes to offers to sell gas, as close as is reasonably practicable to the time of the **balancing action**; and][Note: There appears to be some circularity here. The balancing action is itself a sale/purchase of balancing gas, so how does this rule work, in practice?]

16.4.2 accept (or part accept) the lowest priced offers necessary to purchase gas sufficient to return linepack to the relevant threshold~~or, if necessary, offers available~~, (where the offer price is first increased by ~~any costs of~~the transmission charges that will be incurred by the **balancing agent** in the course of ~~transmission of~~delivering the **balancing gas** ~~to from~~ the reference location to the location of the user's imbalance); and

16.4.3 pay the ~~same clearing price~~ to each person whose offer to sell gas is fully or partially accepted as part of a ~~single balancing action~~, less ~~any costs~~the transmission charges incurred by the **balancing agent** ~~for in~~ transmission of~~delivering the balancing gas from the that gas to the~~ reference location to the location of the user's imbalance.

16.5 Subject to rule 16.6, when selling **balancing gas** through the **balancing market** the **balancing agent** must –

16.5.1 [accept offers to purchase gas, or changes to offers to purchase gas, as close as is reasonably practicable to the time of the **balancing action**; and][Note: Again, there appears to be some circularity here. The balancing action is itself a sale/purchase of balancing gas, so how does this rule work, in practice?]

16.5.2 accept (or part accept) the highest priced offers available to sell gas sufficient to return linepack to the relevant threshold~~or, if necessary, offers available~~, (where the offer price is first decreased by ~~any costs of~~the transmission charges that will be incurred by the **balancing agent** in the course of ~~transmission of~~removing the **balancing gas** from the location of the user's imbalance to the **reference location**); and

16.5.3 ~~receive~~require payment of the ~~same clearing price~~ from each person whose offer to purchase gas is fully or partially accepted as part of a ~~single balancing action~~, plus ~~any costs of~~the transmission charges incurred by the **balancing agent** ~~for transmission of~~in removing that

balancing gas from the location of the user's imbalance to the reference location.

16.6 [The **balancing agent** must not accept any offer to sell or purchase **balancing gas** where the resulting **clearing price** would be, -

16.6.1 in the case of purchase of gas, higher than the maximum purchase price specified in the **balancing plan**; or

16.6.2 in the case of sale of gas, lower than the minimum sale price specified in the **balancing plan.** [Note: TSOs should not have any liability to users for failure to perform their contractual obligations to the extent they are affected by the balancing agent's inability (or failure) to provide balancing gas.]

17. Rules for transactions outside balancing gas market

17.1 The **balancing agent** may sell or purchase **balancing gas** other than through the **balancing market** if the **industry body** has given notice to the **balancing agent** that in its opinion the **balancing market** is not meeting the purpose of these rules.

17.2 If rule 17.1 applies, the **balancing agent** must agree with the **industry body** how the **balancing agent** will purchase and sell **balancing gas** until the **industry body** notifies the balancing agent that in its opinion the balancing market meets the purpose of these rules, at which point the **balancing agent** must only purchase or sell **balancing gas** through the **balancing market**, until given a further notice by the **industry body** under rule 17.1. [Note: The balancing agent needs to be notified of the industry body's determination.]

18. Terms of balancing gas transactions

18.1 The **balancing agent** must **publish** the terms and conditions on which it will purchase or sell **balancing gas**, which must –

18.1.1 be consistent with the intent of rule 16.2 and [16.3] [to allow the **balancing market** to be as inclusive as possible]; and [Note: Not sure that the reference in rule 16.3 is necessary.]

18.1.2 reflect reasonable commercial practice. [Note: The balancing agent should be required to obtain suitable payment security/take other prudential measures to manage the performance and payment risk of gas sale/purchase counterparties, particularly if TSOs will be required to in effect underwrite these risks via the suggested indemnity in rule 29 or the fees in rule 51.]

[Note: How will the balancing agent fund its balancing gas transactions? There will be a significant time lag in collecting balancing costs from users so the balancing agent will require access to a significant working capital facility. Access to funding will presumably be a determining factor in the identity of the balancing agent.]

Allocation

19. Rules for allocation of balancing gas

19.1 The **balancing agent** must in respect of each **balancing action** taken by the **balancing agent**, **allocate** the **balancing gas** sold or purchased and the associated ~~costs~~ **cash-out price** of that gas to **users**–

19.1.1 in accordance with the allocation model specified in the **balancing plan**;
and

19.1.2 as soon as practicable after the taking of the **balancing action**.

19.2 In applying the allocation model, the **balancing agent** must have regard to the best information available provided that such information is in the **balancing agent's possession or can be obtained or derived by the balancing agent** without unreasonable difficulty or expense. [Note: Suggested amendments necessary to narrow the very wide scope of this rule.]

19.3 In the event that the **balancing agent** is unable to **allocate** any **balancing gas** to a **user** under the allocation model the **balancing agent** must **allocate** the unallocated **balancing gas** to itself.

20. Notification of adjustments to allocations and cash-out price of balancing gas

20.1 As soon as practicable after allocating **balancing gas** in respect of a **balancing action**, the **balancing agent** must –

20.1.1 notify the **transmission system owners** of any adjustments to be made to **users'** allocations to reflect the **balancing agent's** allocation of the gas (including allocation of **balancing gas** to the **balancing agent** under rule 19.3); and

20.1.2 set a **cash-out price** for the **balancing gas allocated** to each **user** which –

(a) in relation to the purchase of **balancing gas**, is the sum of–

(i) the **clearing price** for the gas; and

(ii) ~~any~~ **the** transmission ~~costs~~ **charges** incurred by the **balancing agent** in delivering the **balancing gas** from the **reference location** to the location of the **user's imbalance**, and

(b) in relation to the sale of **balancing gas**, is the sum of–

(i) the **clearing price** for the gas; and

(ii) ~~any~~ **the** transmission ~~costs~~ **charges** incurred by the **balancing agent** in removing the **balancing gas** from the location of the **user's imbalance** to the **reference location**, and

(c) does not include any allowance for –

- (i) the overheads or other fixed costs of the **balancing agent**;
or
- (ii) **balancing agent** profit; and

20.1.3 notify each affected **users** of the amount of the **balancing agent's** allocation of **balancing gas** [and its associated **cost** to that **user**]. [Note: How does this "cost" differ from the cash-out price for the user, given rule 20.1.2?]

21. Payment for balancing gas purchased

- 21.1 Subject to rule 22.3, as soon as possible after the end of each month in which **balancing gas** is purchased (the **balancing action** month), the **balancing agent** must issue an invoice to each affected **user** for the total cost of **balancing gas** purchased that was **allocated** to the affected **user** during or in respect of the **balancing action** month.
- 21.2 Each affected **user** must pay the amount stated in the invoice to the **balancing agent** –
 - 21.2.1 if the invoice is received before the 10th of the month, no later than the 20th of the month in which the invoice was issued; or
 - 21.2.2 if the invoice is received on or after the 10th of the month, no later than 10 days after the invoice was received.

22. Payment of proceeds of sales of balancing gas

- 22.1 Subject to rule 22.3, as soon as possible after the end of each month in which **balancing gas** is sold (the **balancing action** month), the **balancing agent** must issue a credit note to each affected **user** for the total **cost** of **balancing gas** sold that was **allocated** to the affected **user** during or in respect of the **balancing action** month.
- 22.2 The **balancing agent** must pay each affected **user** the amount stated in the credit note no later than the 20th of the month following the month in which the credit note was issued.
- 22.3 Despite anything in this rule 22 or rule 21, the **balancing agent** may issue an invoice or credit note under this rule 22 or rule 21 that is for the net **cost** that has been **allocated** to the affected **user** in relation to **balancing gas** purchased or sold.

23. Balancing agent must regularly settle any balancing gas allocated to the balancing agent

- 23.1 The **balancing agent** must –
 - 23.1.1 keep a separate record of any **balancing gas allocated** to itself under rule 19.3; and
 - 23.1.2 trade that gas ~~regularly~~ on the New Zealand Gas Exchange, or any other market, with a view to minimising any losses or maximising any gains in relation to ~~the such~~ **balancing gas**. [Note: The obligation to minimise loss/maximise gain, should define transaction regularity; accordingly, the reference to "regularly" can be deleted.]

24. Records of transactions

24.1 The **balancing agent** must maintain a separate record -

24.1.1 in relation to each **balancing gas** transaction of -

- (a) the offer and final prices;
- (b) the quantity;
- (c) the counterparty;
- (d) the transmission ~~cost~~charges (if any); and
- (e) the **balancing action** with which the transaction is associated; and

24.1.2 in relation to each **balancing action** of –

- (a) [the commitment time;] [Note: What does this mean? Suggest this reference is defined or expanded upon.]
- (b) the **clearing price**;
- (c) the total quantity of **balancing gas** purchased or sold; and
- (d) the allocation of **balancing gas** quantity and associated **cash-out price** to each **user** to whom **balancing gas** [and cost] is allocated; and

24.1.3 of any other details of the transactions associated with **balancing actions** that the **balancing agent** considers ~~desirable~~reasonably necessary. [Note: An element of objectivity is necessary here.]

24.2 The **balancing agent** must **publish** in respect of each **balancing action** taken, -

24.2.1 the total quantity of **balancing gas** ~~procured~~sold or purchased; and

24.2.2 the **clearing price** for the gas; and

24.2.3 details of any **balancing gas allocated** to the **balancing agent** under rule 19.3; and

24.2.4 details of the settlement by the **balancing agent** of the accumulated **balance** of **balancing gas allocated** to the agent under rule 19.3 and the loss or gains made; and

24.2.5 details of the profits or loss on trading of gas under rule 23 ; and

24.2.6 the ~~tariff~~transmission charges for any **balancing gas** transmission services used by the **balancing agent**.

24.3 The **balancing agent** must keep the records referred to in rule 24.1 for at least 5 years following the relevant **balancing action**.

25. Errors in allocations

- 25.1** If a **user** who has been **allocated balancing gas** or **costs** associated with **balancing gas** under rules 19 and 20 considers that the allocation of gas or **costs** was calculated in error, the person must advise the **balancing agent** of the error as soon as possible.
- 25.2** If the **balancing agent** considers that an error has occurred and has resulted in a materially different allocation of **balancing gas** or **cost** than would have resulted had the error not occurred, the **balancing agent**–
- 25.2.1** must assess the difference between the amount of **balancing gas** and cost **allocated**, and the amount that should have been **allocated** and must make a new allocation of **balancing gas** and cost that reflects the difference between the two amounts; and
- 25.2.2** must give notice of the error and the new allocation to -
- (a) affected **users**; and
- (b) the relevant **transmission system owner** or owners; and
- 25.2.3** if an invoice or credit note has already been issued in relation to the original allocation of **[cost]**, the **[cost]** associated with the new allocation must be included in the next invoice or credit notice sent to the affected **users**.
- 25.3** A **transmission system owner** who is notified under rule 25.2 of a new allocation, must ensure the affected **users**' allocations of gas are adjusted to reflect the new allocation. [Note: The VTC may require amendment to give effect to these adjustments.]
- 25.4** The **balancing agent** –
- 25.4.1** must make a decision in relation to any errors advised to it within 12 months of the advice; and
- 25.4.2** may not make a new allocation of **balancing gas** and **[cost]** under rule 25.2 unless the **balancing agent** has received notification of the error within 6 months after the date of notification of the allocation to **users** under rule 20.1.3.

Reporting

26. Monthly reports

- 26.1** The **balancing agent** must, within 10 **business days** of the end of each month, provide a written report to the **industry body** and to the **transmission system owners** that sets out the following information -
- 26.1.1** a summary of the information referred to in rule 24.2 for the month; and
- 26.1.2** any breaches of these rules by the **balancing agent** or any other person of which the **balancing agent** is aware at the date of the report and which have not previously been notified in a report.

- 26.2 The **industry body** may **publish** the information in the monthly report that is provided under rule 26.1.1 and such information that is provided under rule 26.1.2 as in its opinion is ~~desirable~~reasonably necessary. [Note: An element of objectivity is necessary here.]

Part 3. Appointment of balancing agent, development of balancing plan, and funding

Subpart 1

Appointment of balancing agent by joint transmission system owners [Note: Vector considers that it is more appropriate for the industry body to appoint the balancing agent, and levy users under the rules for the costs and liabilities associated with the balancing agent's appointment and ongoing operations. TSOs may not be able to pass these costs on to users, due to the imposition of price control regulation under the Commerce Amendment Act. Even if TSOs are allowed to pass these costs on, it is inappropriate that TSOs should take the risk of non-payment of balancing agent costs and liabilities. It would be more efficient if the industry body paid the balancing agent's costs and liabilities directly, and allocated these costs and liabilities to users, as fees levied under the rules. The Gas Governance (Compliance) Regulations would incentivise payment of these fees. An entitlement to set these fees off against cash-out payments due to users could be included in the rules and would further facilitate payment. See also the comments in rule 43.2.2 in relation to prudential requirements applying to users.]

27. Application of subpart

~~27.1~~ ~~This subpart applies subject to subpart 2. [Note: Subpart 2 is subject to subpart 1, so this statement is not needed.]~~

28. ~~Joint~~ Obligations of transmission system owners in relation to appointment of balancing agent and preparation of balancing plan

28.1 If this subpart applies, all **transmission system owners** must ~~together~~ –

28.1.1 attempt to agree on –

(a) the identity of a person to act as the **balancing agent** under these rules; and

(b) the contents of a draft balancing plan; and

(c) changes to the transmission systems codes reasonably necessary as a consequence of these rules; and [Note: The balancing plan will need to be conditional on the required changes to these codes being made; see rule 30.1.4 below. It should perhaps be made clear that all of the imbalance provisions in the current codes will be superseded by these rules.]

28.1.2 if they agree on the identity of a **balancing agent** and on a draft balancing plan and the required changes to the transmission system

codes, consult upon and seek approval of that plan from the **industry body** in accordance with the procedure in rule 31; and

28.1.3 [if the **balancing plan** is approved by the **industry body** under rule 32, as soon as is practicable following receipt of such approval, appoint the person named in the **balancing plan** to act as the **balancing agent** for the purposes of these rules; and]

28.1.4 if they cannot agree on the identity of a **balancing agent**, ~~or~~ on a draft balancing plan, and the required changes to the **transmission system codes** within 60 business days from the commencement date, notify the **industry body** accordingly, (providing, [if relevant], further information about the status of their negotiations). [Note: How will TSOs determine relevance here?]

~~28.2~~ If the **transmission system owners** have appointed a **balancing agent** and the **industry body** has approved a **balancing plan** under rule 32 then, subject to rule 41, the **transmission system owners** must ensure that there remains at all times a **balancing agent** appointed by the **transmission system owners**. [Note: TSOs cannot control the actions of a balancing agent (for example, it may unilaterally terminate its service contract), or their ability to appoint replacements. It is, therefore, inappropriate for TSOs to assume this obligation.]

29. [Terms of appointment of balancing agent

29.1 The terms and conditions of appointment of a **balancing agent** by the **transmission system owners** may provide for -

29.1.1 reasonable remuneration to be paid to the **balancing agent** by the **transmission system owners**; and [Note: Funding costs are likely to be significant for the balancing agent. Should these be expressly referred to?]

29.1.2 [an indemnity by the **transmission system owners** (severally, and in agreed proportions) of any costs incurred by the **balancing agent** that are unable to be recovered from – [Note: Any indemnity must be several, and not joint, and apply only in respect of a TSOs agreed portion of any liability, as one TSO should not be required to underwrite the solvency of another. TSOs should also have subrogation rights in respect of liabilities owed to the balancing agent by users and balancing action counterparties. Also, see the comments at the top of subpart 1 in relation to Vector's wider concerns regarding TSOs underwriting the costs and liabilities of the balancing agent, and the comments relating to user and balancing action counterparty prudential requirements. This indemnity places TSOs in the position, ultimately, of underwriting the solvency of the industry (users and balancing action counterparties). This seems inefficient and unfair. Users should bear this responsibility]

(a) **users** under rule 6.2.2(a); or

(b) contracting parties in relation to the purchase and sale of **balancing gas**; and]

29.1.3 the profits or loss on trading of gas under rule 23 to be passed on to or indemnified by the **transmission system owners**; and

29.1.4 any other terms and conditions not inconsistent with these rules. [Note: Any contract must include the ability to terminate such an appointment if required by the industry body under rule 39.1.3.]

29.2 The transmission system owners must publish -

29.2.1 the terms and conditions of appointment of any **balancing agent** appointed by them; and

29.2.2 any amendments to or replacement terms and conditions of appointment of any **balancing agent** appointed by them.

29.3 To avoid doubt, only one person must be appointed as **balancing agent** in respect of the whole **transmission system**.]

30. Contents of draft balancing plan

30.1 The draft balancing plan must –

~~30.1.1 contain all the information required by the Schedule; and [Note: Duplicates 30.1.2]~~

30.1.1 comply with the requirements in the Schedule; and

30.1.2 be consistent with the purpose of these rules, including by containing processes and procedures that support a unified regime for **balancing** the whole **transmission system**; and

30.1.3 be consistent with the Gas Governance (Critical Contingency Management) Regulations 2008; and

30.1.4 be consistent with **MPOC**, **VTC**, or any other **transmission system code** except to the extent necessary to comply with these rules. [Note: The MPOC and the VTC and any TSO non-code shipper agreements are likely to require substantial amendment in order to be consistent with a balancing plan prepared in accordance with these rules. The initial balancing plans will need to be made conditional on necessary changes being made to these contractual arrangements.]

Process for approval of Balancing plan

31. Procedure for approval of balancing plan

31.1 If the **transmission system owners** agree on a draft balancing plan, the owners must -

31.1.1 provide a copy of the draft balancing plan to the **industry body**; and

31.1.2 consult on the draft balancing plan with persons that the **transmission system owners** consider are representative of the interests of persons likely to be substantially affected by the draft balancing plan; and

31.1.3 give persons consulted with under rule 31.1.2 at least 20 **business days** to make submissions to the **transmission system owners** on the draft balancing plan; and

31.1.4 provide copies of the submissions to the **industry body**, and publish the submissions. as soon as practicable after those submissions have been received.

31.2 The **industry body** must **publish** the draft balancing plan.

31.3 After the consultation required by rule 33.1, the **transmission system owners** may amend the draft balancing plan and –

31.3.1 if the amendments do not materially impact on the contents of the **balancing plan**, may submit a proposed final **balancing plan** to the **industry body** for approval; or

31.3.2 if the amendments materially impact on the contents of the plan, must produce a new draft balancing plan, provide it to the **industry body**, and consult on it again in accordance with rule 33.1, (however, in this circumstance, the minimum number of days for the making of submissions is 10 **business days**).

31.4 Rule 31.2 and this subclause-rule 31 apply with any necessary modifications to a new draft balancing plan.

32. Approval of balancing plan

32.1 The **industry body** must approve the proposed **balancing plan** submitted under rule 31.3.1 if it is satisfied that it meets the requirements of rule 30. [Note: The timing of this needs to be specified.]

32.2 If the **industry body** declines to approve the proposed **balancing plan** –

32.2.1 it must give reasons; and

32.2.2 it may propose amendments to the plan; and

32.2.3 the **transmission system owners** must consider the reasons and any proposed amendments and may amend the proposed **balancing plan**, and –

(a) if the amendments do not materially impact on the contents of the plan, may resubmit the proposed **balancing plan** to the **industry body** for approval; or

(b) if the amendments materially impact on the contents of the plan, must produce a new draft balancing plan, provide it to the **industry body**, and consult on it again in accordance with rule 31.1 (however, in this circumstance, the minimum number of days for the making of submissions is 10 **business days**).

32.3 Rule 31.2 and 31.3 apply to the resubmitted **balancing plan**. [Note: The timing of these obligations needs to be specified.]

33. Publication of initial balancing plan

33.1 As soon as practicable after the **industry body** has approved a **balancing plan** under rule 32, the **industry body** must –

33.1.1 notify the transmission system owners that the plan has been approved; and

33.1.2 publish the approved **balancing plan** ~~on its website~~; and

33.1.3 publish, ~~both (including in the Gazette) and on the industry body's website~~, a statement specifying—

(a) that it has approved a **balancing plan**; and

(b) the go-live date on which, in accordance with rule 2.1, rules 6 to 11 and Part 2 come into force.

~~**33.2** No later than 5 **business days** after the **industry body** publishes a statement under rule 33.1, the **transmission system owners** must **publish** the **balancing plan** on all relevant **information exchanges**.~~

Amendment to balancing plan

34. Process for amendment to approved balancing plan

34.1 A **balancing plan** that has been approved by the **industry body** may be amended at any time in accordance with the procedure in this rule **34**.

34.2 An amendment to the **balancing plan** may be proposed by –

34.2.1 all **transmission system owners** together; or

34.2.2 the **industry body**.

34.3 The **transmission system owners** may submit a proposed amendment directly to the **industry body** without complying with rule 35 if the proposed amendment—

34.3.1 is minor and technical; or

34.3.2 in the **transmission system owners' owner's** view, needs to be made urgently.

34.4 A proposed amendment submitted under rule 34.3 must be accompanied by an explanation as to –

34.4.1 the reasons for the proposed amendment; and

34.4.2 the reasons why the proposed amendment is considered to fit within the scope of rule 34.3.

34.5 The **industry body** must approve an amendment under rule 36 if the **industry body** agrees that the amendment fits within the scope of rule 34.3 and complies with rule 30.

- 34.6** If an amendment is proposed by the **industry body**, the **industry body** must submit the proposed amendment to the **transmission system owners**, together with an explanation for the proposed amendment.
- 34.7** One or more **transmission system owners** or other **users** may request the **industry body** to propose an amendment under this rule, and for that purpose may submit a suggested amendment to the **industry body**, who may, in its discretion (but subject to the amendments complying with rule 30) decide whether or not to take up the suggested amendment.
- 35. Consultation on proposed amendments to balancing plan**
- 35.1** This rule applies if the **transmission system owners**—
- 35.1.1** receive a proposed amendment to the **balancing plan** from the **industry body**; or
 - 35.1.2** wish to propose an amendment that does not fall within rule 34.3 (including one which was proposed to the **industry body** under that rule, but which the **industry body** has advised the **transmission system owners** it does not agree falls within the scope of that subclause); or
 - 35.1.3** have proposed an amendment under rule 34.3.2, whether or not it has been approved by the **industry body**.
- 35.2** If this rule applies, the **transmission system owners** must—
- 35.2.1** consult on the proposed amendment (or approved urgent amendment) to the **balancing plan** with persons that the **transmission system owners** consider are representative of the interests of persons likely to be substantially affected by the proposed amendment; and
 - 35.2.2** give persons consulted with under rule 35.2.1 at least 20 **business days** to make submissions to the **transmission system owners** on the proposed amendment; and
 - 35.2.3** provide copies of the submissions to the **industry body**, and publish the submissions, as soon as practicable after those submissions have been received; and
 - 35.2.4** consider the submissions made and, —
 - (a) if the **transmission system owners** wish (in conjunction with the **industry body** if it is the proposer), may make any minor amendments to the proposed amendment that the **transmission system owners** consider necessary; and
 - (b) submit the proposed amendment to the **industry body** for approval; or
 - (c) if the **transmission system owners** wish to make any material amendments to the proposed amendment, must propose a new amendment and follow the procedure in this rule again (however, in this circumstance, the minimum number of days for the making of submissions is 10 **business days**).

- 35.3** If the **transmission system owners** propose an amendment to the **balancing plan**, they must provide it to the **industry body** together with an explanation for the proposed amendment.
- 35.4** The **industry body** must **publish** each proposed amendment to the **balancing plan**, together with the explanation by the proposer.
- 36. Approval of amendment to balancing plan**
- 36.1** If the **industry body** receives a proposed amendment under rule 34.3 or 35.2.4, the **industry body** must approve (or, in the circumstances in rule 38, confirm) the amendment if it is satisfied that it meets the requirements of these rules and rule 30.
- 36.2** If the **industry body** declines to approve the proposed amendment to the **balancing plan** –
- 36.2.1** it must give reasons; and
- 36.2.2** may propose amendments to the **balancing plan** amendment; and
- 36.2.3** the **transmission system owners** must consider the reasons and any proposed amendments, and may amend the proposed amendments to the **balancing plan** and –
- (a) if the amendment does not materially impact on the contents of the **balancing plan** amendments, may resubmit the proposed **balancing plan** amendment for approval; or
- (b) if the amendments materially impact on the contents of the **balancing plan** amendments, must produce a new **balancing plan** amendment, and consult on it again in accordance with rule 35.2.
- 37. Publication of amended balancing plan**
- 37.1** The **industry body** must as soon as practicable after approving an amendment to the **balancing plan** –
- 37.1.1** notify the **transmission system owners** that the amendment has been approved; and
- 37.1.2** **publish** the amended **balancing plan** ~~on its website~~.
- 37.2** The **transmission system owners** must ~~immediately as soon as practicable~~ upon receipt of notification under rule 37.1, **publish** the amended plan on all relevant **information exchanges**.
- 37.3** An amendment to the **balancing plan**, that is approved by the **industry body**–
- 37.3.1** on a date that is before the 25th of a month, comes into force on the 1st day of the month following the month in which the amended plan is **published** in accordance with rule 37.1.2; or
- 37.3.2** on a date that is ~~the 25th, on~~ or after the 25th, of a month, comes into force on the 1st day of the 2nd month after the month in which the amended plan is **published** in accordance with rule 37.1.2.

37.4 Despite rule 37.3 an urgent amendment to the **balancing plan** comes into force on the date it is notified to the **transmission system owners** under 37.1.

38. Expiry of urgent amendments

38.1 An amendment to the **balancing plan** submitted under rule 34.3.2 (which relates to urgent amendments) expires after 60 **business days**, unless by that date, -

38.1.1 the amendment has been consulted upon by the **transmission system owners** under rule 35; and

38.1.2 confirmed by the **industry body** under rule 36.1.

38.2 If an urgent amendment expires, the **balancing agent** must –

38.2.1 notify the **transmission system owners** that the amendment has expired; and

38.2.2 **publish** the **balancing plan** as it was before the urgent amendment ~~on its website.~~

Subpart 2

Appointment of balancing agent by industry body

39. Application of this Part

39.1 This subpart applies if –

39.1.1 the **transmission system owners** have failed to submit a proposed final **balancing plan** to the **industry body** under rule 31.3.1 within 60 **business days** of the **commencement date** and in the **industry body's** opinion the process in rules 28 to 33 -

(a) is ~~at a~~ deadlocked; or

(b) is unlikely to be completed in a timely manner; or

39.1.2 there is no **balancing agent** appointed by the **transmission system owners** carrying out the functions in Part 2 following the **go-live date**; or

39.1.3 the **industry body** ~~is satisfied~~ has determined that the **balancing agent** appointed by the **transmission system owners** under subpart 1 is failing to carry out its functions in accordance with these rules.

39.2 To avoid doubt, no person is required to comply with this subpart unless it applies.

40. Industry body's duties if subpart applies

40.1 If this subpart applies, the **industry body** must –

40.1.1 give the **transmission system owners** written notice that, subject to any submissions it may receive under rule 40.1.2 from a date specified in the notice it will -

- (a) appoint a **balancing agent** in accordance with rule 42; and
- (b) set and approve a **balancing plan** under rule 45; and

40.1.2 give the **transmission system owners** **15 business days** to make submissions to the **industry body** in response to the notice; and

40.1.3 if not satisfied after receiving any submissions from the **transmission system owners** that by the date specified in the notice given under rule 40.1.1 there will be a **balancing agent** appointed by the **transmission system owners** in place who is carrying out functions in accordance with these rules - .

- (a) prepare and approve a **balancing plan** under rule 45; and
- (b) appoint a **balancing agent** in accordance with rule 42 to carry out the functions in Part 2 from the date the **balancing plan** comes into force under rule 46 or 47; and

40.2 The date specified in the notice under rule 40.1.1 must not be earlier than **30 business days** from the date of the notice.

41. Consequences of appointment of balancing agent and setting of balancing plan by industry body

41.1 If the **industry body** appoints a **balancing agent** under rule 42, and publishes a **balancing plan** under rule 46 or 47 then, from the date the **balancing plan** comes into force -

41.1.1 the **transmission system owners** are not required to comply with rule 28; and [Note: This disapplication of rule 28 should apply from the date the notice is given to TSOs under rule 40.1.1]

41.1.2 the ~~appointment of any balancing agent's contract with~~ by the **transmission system owners** is ~~revoked~~terminated; and [Note: The balancing agent will be appointed by private contract. Termination of this arrangement, if the industry body reaches the conclusion set out in rule 39.1.3, would be simplified if the contract was with the industry body, directly]

41.1.3 any **balancing plan** approved by the **industry body** under subpart 1 ceases to apply.

41.2 A **balancing agent** whose appointment is ~~revoked~~terminated under rule 41.1.2 must –

41.2.1 cooperate with the **balancing agent** appointed by the **industry body**; and

41.2.2 provide copies of all records kept under rule 24 to the **balancing agent** appointed by the **industry body**; and

41.2.3 provide copies of all other relevant documents held by the agent that relate the **balancing agent's** functions to the **balancing agent** appointed by the **industry body**.

41.3 The **industry body** must pay the former **balancing agent** reasonable costs associated with the transfer of the **balancing agent** function. [Note: Again, there is considerable alignment between rules 41.2 and 41.3 and the notion that the industry body should appoint the balancing agent, directly]

Appointment of balancing agent

42. Appointment of balancing agent by industry body

42.1 If this subpart applies, the **industry body** may by agreement with any person appoint that person to act as the **balancing agent** under these rules.

42.2 In determining whether to appoint a person under rule 42.1, the **industry body** must have regard to –

42.2.1 the person's capacity to carry out the functions of a **balancing agent** under these rules; and

42.2.2 any other matter that in the **industry body's** opinion is relevant to the appointment.

42.3 To avoid doubt if a **balancing agent** is appointed by the **industry body** at a time when a **balancing agent** appointed by the **transmission system owners** is carrying out functions under these rules, the **balancing agent** appointed by the **industry body** is not required to carry out functions under Part 2 until the date the other **balancing agent's** appointment is revoked under rule 41.1.2.

43. Terms of appointment of balancing agent by industry body

43.1 The **industry body** and the person proposed to be appointed as the **balancing agent** under rule 42 must –

43.1.1 agree the terms and conditions of the **balancing agent's** appointment under rule 42; and

43.1.2 record those terms and conditions in a **balancing agent** service provider agreement.

43.2 The terms and conditions of the **balancing agent** service provider agreement–

43.2.1 may not be inconsistent with the obligations of the **balancing agent** under these rules; and

43.2.2 may provide for—

(a) reasonable remuneration to be paid to the **balancing agent** by the **industry body**; and

(b) the **industry body** to indemnify the **balancing agent** for any costs incurred by the **balancing agent** that are unable to be recovered from –

- (i) **users** under rule 6.2.2(a); or
- (ii) contracting parties in relation to the purchase and sale of **balancing gas**; and
- (c) the profits and loss on trading of gas under rule 23 to be passed on to or indemnified by the **industry body**; and
- (d) any other terms and conditions not inconsistent with these rules.

[Note: Funding costs are likely to be significant for the balancing agent. Should these be expressly referred to?]

[Note: The GIC should consider adding to the rules prudential requirements applicable to all users to help manage the payment risk on balancing gas cash-outs. These would include the provision of payment security to the balancing agent (given also for the benefit of the industry body/the TSOs if they are required to appoint the balancing agent and underwrite its costs and liabilities) and would help manage the risk (on behalf of the industry) of non payment by users of what could be significant balancing gas cash-out costs.]

- 43.3 The **industry body** may at any time terminate, or change the appointment of, or reappoint, any person as the **balancing agent**, subject to the terms of the **balancing agent** service provider agreement.
- 44. **Publication of balancing agent service provider agreement**
 - 44.1 The **industry body** must publish –
 - 44.1.1 any **balancing agent** service provider agreement entered into by the **industry body**; and
 - 44.1.2 any amendment to any **balancing agent** service provider agreement.

Balancing plan

- 45. **Balancing plan**
 - 45.1 If this subpart applies, the **industry body** must –
 - 45.1.1 prepare and **publish** a draft balancing plan that complies with rule 30; and
 - 45.1.2 consult on the draft balancing plan with the **transmission system owners** and other persons that the **industry body** considers are representative of the interests of persons likely to be substantially affected by the proposed balancing plan; and
 - 45.1.3 give persons consulted with under rule 45.1.2 at least 20 **business days** to make submissions to the **industry body** on the draft balancing plan; and

45.1.4 consider the submissions made and make any amendments to the draft balancing plan that the **industry body** considers necessary and publish the submissions.

45.2 After following the procedure in rule 45.1, the **industry body** may set and approve the final **balancing plan**. [Note: The timing of this needs to be specified.]

45.3 Despite anything in these rules, if a draft balancing plan has been consulted upon by the **transmission system owners** under rule 31, but the **transmission system owners** are unable to agree on the final **balancing plan** to be submitted to the **industry body**, or the **industry body** considers that further consultation is unnecessary, the **industry body** may set and approve a **balancing plan** under rule 45.2 without following the procedure in rules 45.1.2 to 45.1.4. [Note: The timing of this needs to be specified.]

46. Publication of initial balancing plan

46.1 This rule applies if the **balancing plan** approved by the **industry body** under rule 45 is the first **balancing plan** approved by the **industry body** under these rules.

46.2 If this rule applies, as soon as practicable after the **industry body** has approved the **balancing plan**, it must –

46.2.1 **publish**, (including in the Gazette) and on the industry body's website, a statement specifying—

- (a) that it has approved a **balancing plan**; and
- (b) the **go-live date** on which, in accordance with rule 2, rules 6 to 11 and Part 2 come into force; and

46.2.2 **publish** the approved **balancing plan** on its website.

46.3 No later than 5 **business days** after the **industry body publishes** a statement under rule 46.2, the **transmission system owners** must **publish** the **balancing plan** on all relevant **information exchanges**.

47. Publication of approved balancing plan

47.1 If rule 46 does not apply, -

47.1.1 the **industry body** must **publish** the plan approved under rule 45 as soon as practicable on its website; and

47.1.2 the **transmission system owners** must within 5 **business days** of approval of the **balancing plan** under rule 45 **publish** the **balancing plan** on all relevant **information exchanges**; and

47.1.3 the **balancing plan** approved under rule 45 comes into force, if the plan is **published** under rule 47.1.1 -

- (a) on a date that is before the 25th of a month, on the 1st day of the month following the month in which the plan is **published**; or

- (b) on a date that is the 25th, or after the 25th, of a month, on the 1st day of the 2nd month after the month in which the plan is **published**.

48. Amendments to balancing plan [Note: Suggest that the industry body's rights and obligations relating to approving amendments to a balancing plan mirror those set out in rule 34; it is not clear why amendments made by the industry body are treated differently to those processed under rule 34.]

- 48.1** The **industry body** may approve amendments to a **balancing plan** -approved under rule 45 or 46.
- 48.2** However, unless the proposed amendment is minor and technical or in the **industry body's** view needs to be made urgently, the **industry body** must follow the procedure in rule 45 before approving the amendment (and in such case rule 45 applies with any necessary modifications as if the proposed amendment to the **balancing plan** were a draft balancing plan).
- 48.3** The **industry body** may follow the procedure in rule 45 in relation to an urgent amendment but, to avoid doubt, the amendment does not automatically expire.
- 48.4** One or more **transmission system owners** or other **users** may suggest amendments to the **balancing plan** to the **industry body**, and the **industry body** may, in its discretion (but subject to the amendments complying with rule 30) decide whether or not to take up the suggested amendment.
- 48.5** If the **industry body** approves an amendment to a **balancing plan** approved under rule 45 or 46, -
 - 48.5.1** the **industry body** must notify the **transmission system owners** of the amendment as soon as practicable and **publish** the amended **balancing plan** ~~on its website~~; and
 - 48.5.2** the **transmission system owners** must within 5 **business days** of approval of the amendment **publish** the amended **balancing plan** on all relevant **information exchanges**; and
 - 48.5.3** the amendment to the **balancing plan** comes into force, if the amended **balancing plan** is **published** under rule 48.5.1 -
 - (a) on a date that is before the 25th of a month, on the 1st day of the month following the month in which the plan is **published**; or
 - (b) on a date that is the 25th, or after the 25th, of a month, on the 1st day of the 2nd month after the month in which the plan is **published**.
- 48.6** Despite rule 48.5, an urgent amendment to the **balancing plan** comes into force on the date it is notified to the **transmission system owners** under rule 48.1.

Subpart 3
Funding

49. Development fee

49.1 The development fee is a fee to meet the balancing regime development costs.

49.2 The balancing regime development costs are—

49.2.1 if subpart 1 applies, -

- (a) the costs of the **industry body** associated with reviewing and approving a **balancing plan** under subpart 1; and
- (b) the costs of the **industry body** in connection with the development and establishment of the **balancing** arrangements under subpart 1; and

49.2.2 if subpart 2 applies-

- (a) the costs of the **industry body** associated with the appointment of the **balancing agent**; and
- (b) the costs (if any) payable by the **industry body** to the **balancing agent** before the **go-live date** in respect of the development and establishment of any **balancing** arrangements required under these rules; and
- (c) the costs of the **industry body** in connection with the development and consultation on the **balancing plan** under subpart 2.

49.3 A person who is a **transmission system owner** at the –

49.3.1 commencement date, is liable to pay the development fee referred to in rule 49.2.1; and-

49.3.2 the date a **balancing plan** approved under subpart 2 comes into force is liable to pay the development fee referred to in 49.2.2. [Note: As set out at the top of subpart 1, Vector considers that it is more appropriate for the industry body to appoint the balancing agent, and levy users under the rules for the costs and liabilities associated with the balancing agent's appointment and ongoing operations. TSOs may not be able to pass these costs on to users, due to the imposition of price control regulation under the Commerce Amendment Act. Even if TSOs are allowed to pass these costs on, it is inappropriate that TSOs should take the risk of non-payment of balancing agent costs and liabilities. It would be more efficient if the industry body paid the balancing agent's costs and liabilities directly, and allocated these costs and liabilities to users, as fees levied under the rules. The Gas Governance (Compliance) Regulations would incentivise payment of these fees. An entitlement to set these fees off against cash-out payments due to users could be included in the rules and would further facilitate payment. See also the comments in rule 43.2.2 in relation to prudential requirements applying to users.]

49.4 To avoid doubt, -

49.4.1 the **balancing** regime development costs do not include costs incurred before the **commencement date**; and

49.4.2 if a development fee is payable in relation to the costs in rules 49.2.1 and 49.2.2, the same costs may not be included in both fees;

49.4.3 a **transmission system owner** may be liable to pay a development fee under both rules 49.3.1 and 49.3.2.

50. How and when balancing regime development fee must be paid

50.1 A development fee is payable to the **industry body**.

50.2 Every person to whom –

50.2.1 rule 49.3.1 applies must supply to the **industry body** a return as at a date that is as soon as practicable after the **commencement date** and no later than 38 days after the **commencement date**; and

50.2.2 rule 49.3.2 applies must supply to the **industry body** a return as at a date that is as soon as practicable after the date a **balancing plan** published under rule 46 or 47 comes into force and no later than 38 days after that date

(in each case “the deadline for supplying returns”)

50.3 A return under rule 50.2 must state—

50.3.1 the total number of gigajoules of gas that were injected or received into any part of the **transmission system** owned by the **transmission system owner** that did not come from another part of the **transmission system**, during the 12 months prior to the month in which the deadline for supplying returns occurred; and

50.3.2 the total number of gigajoules of gas that were taken out of any part of the **transmission system** owned by the **transmission system owner**, other than into another part of the **transmission system**, during the 12 months prior to the month in which the deadline for supplying returns occurred.

50.4 As soon as practicable after the deadline for supplying returns, the **industry body** must determine and **publish** a breakdown of the estimated **balancing** regime development costs.

50.5 [As soon as practicable after the deadline for supplying returns, the **industry body** must invoice every person to whom the relevant paragraph of rule 49.3 applies for that person's share of the estimated **balancing** regime development costs calculated in accordance with the following formula:

$$S = A \times B/C$$

where—

A is the estimated **balancing** regime development costs

- B is the sum of –
- (a) the total quantity of gas injected or received into the person's part of the **transmission system** that did not come from another part of the **transmission system** during the 12 month period covered by the return; and
 - (b) the total quantity of gas taken out of the person's part of the **transmission system**, other than into another part of the **transmission system**, during the 12 month period covered by the return; and

- C is the sum of –
- (a) the total quantity of gas injected or received into all persons' parts of the **transmission system** that did not come from another part of the **transmission system** during the 12 month period covered by the return; and
 - (b) the total quantity of gas taken out of all persons' parts of the **transmission system**, other than into another part of the **transmission system**, during the 12 month period covered by the return; and

S is the amount that must be invoiced to the **transmission system owner**
[Note: Consistent with the comments above, this formula should be reformulated to levy these costs to users, not TSOs.]

50.6 As soon as practicable after each of the following dates, the **industry body** must determine and **publish** the actual **balancing** regime development costs–

50.6.1 the **go-live date**; and

50.6.2 if subpart 2 applies and the **balancing plan** approved under rule 45 is not the first **balancing plan** approved by the **industry body**, the date the **balancing plan** comes into force under rule 47.

50.7 No less than 10 **business days** after publication of the actual **balancing** regime development costs, the **industry body** must invoice or issue a credit note to every person to whom rule 49.3.1, or if relevant 49.3.2 applies with the difference between—

50.7.1 that person's share of the actual **balancing** regime development costs calculated in accordance with the formula in rule 50.5, with the necessary modifications; and

50.7.2 the amount of the estimated **balancing** regime development costs invoiced to that person.

51. Ongoing fees

51.1 The ongoing fees are monthly fees to meet the ongoing **balancing agent** costs.

51.2 The ongoing **balancing agent** costs are—

51.2.1 in respect of any period in which a **balancing agent** appointed by the **transmission system owners** is carrying out the functions in Part 2 -

- (a) the costs of the **industry body** associated with **balancing agent** management and its obligations under these rules, including in relation to any **balancing plan** amendments, during that year; and
- (b) the costs payable to any auditor appointed by the **industry body** under rule 55; and

51.2.2 in respect of any period in which a **balancing agent** appointed by the **industry body** is carrying out the functions in Part 2 -

- (a) the costs payable by the **industry body** to the **balancing agent** in respect of that year; and
- (b) the costs payable to any auditor appointed by the **industry body** under rule 55; and
- (c) the costs of the **industry body** associated with **balancing agent** management and its obligations under these rules, including in relation to any **balancing plan** amendments, during that year.

51.3 [Each person who is a **transmission system owner** in a month is liable to pay ongoing fees for that month in accordance with these rules.] [Note: As set out at the top of subpart 1, Vector considers that it is more appropriate for the industry body to appoint the balancing agent, and levy users under the rules for the costs and liabilities associated with the balancing agent's appointment and ongoing operations. TSOs may not be able to pass these costs on to users, due to the imposition of price control regulation under the Commerce Amendment Act. Even if TSOs are allowed to pass these costs on, it is inappropriate that TSOs should take the risk of non-payment of balancing agent costs and liabilities. It would be more efficient if the industry body paid the balancing agent's costs and liabilities directly, and allocated these costs and liabilities to users, as fees levied under the rules. The Gas Governance (Compliance) Regulations would incentivise payment of these fees. An entitlement to set these fees off against cash-out payments due to users could be included in the rules and would further facilitate payment. See also the comments in rule 43.2.2 in relation to prudential requirements applying to users.]

51.4 In this rule and rules 52 and 53, year means the financial year of the **industry body** unless the context otherwise requires.

52. How and when estimated ongoing fees payable

52.1 The estimated ongoing fees are payable to the **industry body**.

52.2 Rule 52.3 applies to each month after (and including the month of) the **go-live date**.

52.3 Every person to whom rule 51.3 applies must supply to the **industry body** a return no later than the tenth day of each month, unless otherwise agreed by the **industry body**.

52.4 The return must state—

52.4.1 the total number of gigajoules of gas that were injected or received into any part of the **transmission system** owned by the **transmission system owner**, other than from another part of the **transmission system**, during the previous month; and

52.4.2 the total number of gigajoules of gas that were taken out of any part of the **transmission system** owned by the **transmission system owner**, other than into another part of the **transmission system**, during the previous month.

52.5 As soon as practicable after the **go-live date**, the **industry body** must determine and **publish** a breakdown of the estimated **balancing** regime ongoing costs for the first year or part year of operation of the **balancing plan**.

52.6 [As soon as practicable after the publication of those estimated balancing regime ongoing costs, the **industry body** must notify every person to whom rule 51.3 applies of the estimated **balancing** regime ongoing costs, and that ongoing fees will be payable by that person in that year or part year in accordance with the following formula:

$$S = A \times B/C$$

where—

A is the **balancing** regime ongoing costs estimated in accordance with rule 52.5 and divided by the number of months in the applicable year or part year

B is the sum of –

- (a) the total quantity of gas injected or received into the person's part of the **transmission system**, other than from another part of the **transmission system** during the month before the month in which the relevant invoice is issued under rule 52.7; and
- (b) the quantity of gas taken out of the person's part of the **transmission system**, other than into another part of the **transmission system** during the month before the month in which the relevant invoice is issued under rule 52.7; and

C is the sum of –

- (a) the total quantity of gas injected or received into all persons' parts of the **transmission system** that did not come from another part of the **transmission system** during the month before the month in which the relevant invoice is issued under rule 52.8; and
- (b) the total quantity of gas taken out of all persons' parts of the **transmission system**, other than into another part of the **transmission system**, during the month before the month in which the relevant invoice is issued under rule 52.8; and

S is the amount that must be invoiced to the **transmission system owner** for the month] [Note: Consistent with the comments above, this formula should be reformulated to levy these costs to users, not TSOs.]

52.7 For each year following the first year or part year of operation, the **industry body** must—

52.7.1 estimate and **publish** on its Internet site, at least 2 months before the beginning of the year, a breakdown of the estimated **balancing** regime ongoing costs for that year; and

52.7.2 as soon as practicable after publication of those estimated **balancing** regime ongoing costs, notify every person to whom rule 51.3 applies of the estimated **balancing** regime ongoing costs, and that ongoing fees will be payable by that person in that year calculated in accordance with the formula in rule 52.6.

52.8 On the first **business day** of each month following the notification in rule 52.5, the **industry body** or the **balancing agent** must invoice every person to whom rule 51.3 applies for that person's share of the estimated **balancing** regime ongoing costs payable during that month, calculated in accordance with the formula in rule 52.6.

52.9 If during a year a **balancing agent** appointed by the **transmission system owners** under rule 28.1.3 ceases to carry out functions under this **Act** and a **balancing agent** appointed by the **industry body** commences to carry out functions, the **industry body** must, in respect of the remainder of the year—

52.9.1 estimate and **publish** on its Internet site, as soon as practicable, a breakdown of the estimated **balancing** regime ongoing costs for the remainder of the year; and

52.9.2 as soon as practicable after publication of those estimated balancing regime ongoing costs, notify every person to whom rule 51(3) applies of the estimated balancing regime ongoing costs, and that ongoing fees will be payable by that person in that year calculated in accordance with the formula in rule 52.5.

53. How and when actual ongoing fees payable

53.1 The actual ongoing fees are payable to the **industry body**.

53.2 As soon as practicable after the end of each year of operation, the **industry body** must determine and **publish** on its Internet site, and on the **balancing agent** Internet site, a breakdown of the actual **balancing** regime ongoing costs for that year.

53.3 No less than 10 **business days** after publication of those actual **balancing** regime ongoing costs, the **industry body** must invoice, or issue a credit note, to each person to whom rule 51.3 applies for the difference between—

53.3.1 that person's share of the actual **balancing** regime ongoing costs calculated in accordance with the formula in rule 51.6, with the necessary modifications; and

53.3.2 the amount of the estimated **balancing** regime ongoing costs invoiced to that person in respect of the year.

54. General provisions regarding fees

54.1 The due date for the payment of any invoice or refund of any credit under this subpart is—

54.1.1 the 20th day of the month in which the invoice or credit note was received; or

54.1.2 if the day referred to in rule 54.1.1 is not a **business day**, the following **business day**.

54.2 The fees payable under rules 49 to 53 are exclusive of any goods and services tax payable under the Goods and Services Tax Act 1985, and goods and service tax on those fees (if any) will be added to the invoices or credit notes issued under rules 49 to 53.

54.3 The **industry body** must ensure that all information and returns that are supplied under rules 49 to 53 are used only for the purposes of collecting the development fee or fees and ongoing fees.

Part 4
Miscellaneous

Audit of Balancing Agent's Performance

55. Industry body to commission performance audits

55.1 The **industry body** may, from time to time, arrange performance audits of the **balancing agent**.

55.2 The purpose of a performance audit is to assess—

55.2.1 the performance of the **balancing agent** in terms of compliance with these rules; and

55.2.2 the systems and processes of the **balancing agent** that have been put in place to enable compliance with these rules.

55.3 The **industry body** must appoint as auditor a person who –

55.3.1 is independent to and not in a position of conflict of interest with the **balancing agent** or a **transmission system owner**; and

55.3.2 is not an officer or employee of the **industry body**.

- 55.4** In conducting an audit under this rule, the auditor must not consider any action, circumstance, event, or inaction that occurred 30 months or more before the date the audit was requested by the **industry body**.
- 56. Provision of information to auditor**
- 56.1** In conducting an audit under rule 55, the auditor may:
- 56.1.1** request any information from the **balancing agent**, the **industry body** and any **transmission system owner**; and
 - 56.1.2** request to examine any processes, systems and data of the **balancing agent**, provided such processes, systems and data are directly relevant to the performance of the **balancing agent** in terms of compliance with these rules.
- 56.2** Any request under rule 56.1 must be reasonable and strictly for the purposes of the audit.
- 56.3** The **balancing agent**, the **industry body** and every **transmission system owner** must comply with a request under 56.1 but nothing in this rule limits any claim for legal professional privilege.
- 56.4** In providing information to the auditor, a **transmission system owner** or the **balancing agent** may indicate to the auditor where such information is considered to be confidential.
- 57. Auditor to prepare draft audit report**
- 57.1** The auditor must prepare, in writing, a draft audit report on the conclusions reached and recommendations formulated as a result of conducting an audit under rule 55.
- 57.2** Subject to rule 59, the auditor must give a copy of the draft audit report to -
- 57.2.1** the **balancing agent**; and
 - 57.2.2** ~~any the~~ **transmission system owners** whom the auditor considers has an interest in the report; and [Note: It is likely that all TSOs will have an interest in all audit reports, particularly given the proposal that TSOs jointly appoint the balancing agent and underwrite its costs and liabilities.]
 - 57.2.3** the **industry body**.
- 57.3** The persons referred to in rule 57.2, have 10 **business days** from the date the report is received to provide the auditor with comments on the report.
- 58. Auditor to prepare final audit report**
- 58.1** Before the auditor prepares a final audit report on the conclusions reached and recommendations formulated as a result of conducting an audit under rule 55, the auditor must take into account any comments received on the draft audit report.
- 58.2** The final audit report must be in writing and, if so requested by the **balancing agent**, must include as an appendix any comments from the **balancing agent** on the draft audit report.

- 58.3** The auditor must give a copy of the final audit report to –
- 58.3.1** the **balancing agent**; and
 - 58.3.2** any **transmission system** owner who the auditor considers has a material interest in the report; and
 - 58.3.3** the **industry body**.
- 58.4** Subject to rule 60, once the auditor has given a final audit report under this rule, the report may not be altered in any way.
- 59. Confidential information in audit reports**
- 59.1** In providing a draft audit report or final audit report, the auditor must provide a complete version to the **industry body**.
- 59.2** However, at the discretion of the auditor, the versions of the draft audit report and the final audit report provided to any other person or published under these rules may exclude any confidential information obtained in the conduct of the audit.
- 60. Publication of final audit reports**
- 60.1** The **industry body** must **publish** all final audit reports.
- 60.2** However the **industry body** must not **publish** a version of the final audit report that contains confidential information obtained in the conduct of the audit. [Note: Amend to make it clear that the report must still be published but that confidential information should be redacted.]
- 61. Use of final audit reports**
- 61.1** To avoid doubt, a final audit report may be used –
- 61.1.1** for the purposes of the Gas Governance (Compliance) Regulations 2008;
 - 61.1.2** for the purposes of considering any amendments to these rules;
 - 61.1.3** by the **industry body** -
 - (a) for the purpose of reviewing the performance of the **balancing agent** under these rules, or under the **balancing agent** service provider agreement;
 - (b) for the purpose of reviewing the performance of an auditor; and
 - (c) for any other purposes that it considers necessary.

Notices

- 62. Giving of ordinary notices**
- 62.1** If these rules require any notice to be given, the notice must be in writing and be—

- 62.1.1 delivered by hand to the nominated office of the addressee; or
- 62.1.2 sent by post to the nominated postal address of the addressee; or
- 62.1.3 sent by fax to the nominated fax number of the addressee; or
- 62.1.4 sent by electronic transmission or any other similar method of electronic communication to the appropriate nominated electronic address of the addressee.

62.2 Despite rule 62.1, it is sufficient notice for the purposes of these rules if notice to **users** of the **balancing agent's** allocation of **balancing gas** and **cost** is notified via an **information exchange** accessible to the **user**.

62.3 This rule does not apply to the giving of urgent notices, but does apply to the confirmation of urgent notices under rule 64.

63. When ordinary notices taken to be given

63.1 In the absence of proof to the contrary, notices are taken to be given,—

63.1.1 in the case of notices delivered by hand to a person, when actually received at that person's address:

63.1.2 in the case of notices sent by post, at the time when the notice would in the ordinary course of post be delivered, and in proving the delivery, it is sufficient to prove that the notice was properly addressed and posted:

63.1.3 in the case of notices sent by fax, at the time indicated on a record of its successful transmission:

63.1.4 in the case of notices sent by electronic transmission or any other similar method of electronic communication, including via an **information exchange** —

(a) at the time the computer system used to transmit the notice has received an acknowledgment or receipt to the electronic address of the person transmitting the notice; or

(b) at the time the person who gave the notice proves the notice was transmitted by computer system to the electronic address provided by the addressee.

63.2 This rule does not apply to the giving of urgent notices, but does apply to the confirmation of urgent notices under rule 64.

64. Urgent notices

64.1 Despite rule 62 and 63, an urgent notice may be given orally where the person issuing a notice considers that the urgency of the situation means the notice should not be given in writing.

64.2 If an urgent notice is given orally under rule 64.1 the person who gave that notice must, as soon as practicable, confirm that urgent notice in writing in accordance with rules 62 and 63.

Miscellaneous

65. Safety override

65.1 No person is required to comply with a provision of these rules to the extent that compliance would unreasonably endanger the life or safety of that person or any other person.

66. Relationship with transmission system codes

66.1 Every **transmission system code** must be read subject to these rules.

66.2 If both a **transmission system code** and these rules impose an obligation or liability in respect of the same matter, the obligation or liability under these rules prevails to the extent that the obligation or liability in the code is inconsistent with these rules.

67. Relationship with Gas Governance (Critical Contingency Management) Regulations 2008

67.1 If the **balancing agent** receives notice under regulation 51 of the Gas Governance (Critical Contingency Management) Regulations 2008 that a critical contingency has been declared -

67.1.1 the **balancing agent** must cease to carry out its functions under these rules until a notice is received under regulation 62 of those regulations to advise that the critical contingency has been terminated; and [Note: Should the balancing agent only cease to act to the extent instructed to do so by the Critical Contingency Operator? The balancing agent may perform valuable service during a Critical Contingency and perhaps should not automatically cease acting?]

67.1.2 to the extent that there is any inconsistency between the Gas Governance (Critical Contingency Management) Regulations 2008 and these rules in respect of the actions to be taken during a critical contingency, the Gas Governance (Critical Contingency Management) Regulations 2008 prevail.

SCHEDULE

Requirements for Balancing plan

A **Balancing agent.**

Details about the person who ~~has been to be~~ appointed as the **balancing agent** under rule 28 or 42, including the name and contact details of the **balancing agent**.

B Management of **linepack**

Details of the boundaries of each part of the **transmission system** that is to constitute a separate **balancing zone** which -

- a. must be set to ensure all parts of the **transmission system** are within a **balancing zone**; and
- b. to avoid doubt, may define the entire **transmission system** as a single **balancing zone**.

The following information in relation to each **balancing zone**:

- a. whether the **balancing zone** will be **directly managed** or **indirectly managed** by the **balancing agent**:
- b. the upper and lower threshold for the taking of **balancing** action by the **balancing agent**, which –
 - (i) must be set to give the maximum practicable flexibility for managing **linepack** without unreasonably interfering with the transmission of gas; and
 - (ii) may be different for different periods of the day, week or year; and
 - (iii) may be defined by reference to a formula with measurable variables; and
- c. the target **linepack**, which must be the midpoint between the upper and lower thresholds referred to in paragraph b:

- d. if the **balancing zone** is to be **indirectly managed**, the process by which the **balancing zone** will be managed (for example, by pressure regulator feed from a zone that is **directly managed**), including any rights to compressor operation
- d any points for measuring pressure that are reasonably necessary for the purposes of the **balancing agent** carrying out its functions.

The processes for each of the following:

- a. notification by a **transmission system** owner to the **balancing agent** in the event of any curtailment by the **transmission system owner** in its parts of the **transmission system**:
- b. coordination by the **balancing agent** with a **transmission system owner** if a safety issue arises:
- c. notification of any maintenance activities that may impact upon **linepack**;
- ~~d. coordination of the operation of compressors. [Note: Please see comments in relation to rules 11.1.1 and 11.2 above.]~~

C Provision of information

The procedures for the giving of the information in rules 7 and 9 to the **balancing agent** by **users** and **transmission system owners**

D **Balancing gas**

Details relating to the procurement of **balancing gas** including the following

- a. reasonable technical requirements for the provision of **balancing gas**:
- b. the times and decision process for **balancing actions**:
- c. price thresholds for procuring **balancing gas**, which must be a dollar per gigajoule amount set –
 - (i) in the case of purchase of **balancing gas**, at a level which is a pre-estimate of the critical contingency price that would be applied after a critical contingency under the Gas Governance (Critical Contingency) Regulations 2008, and

- (ii) in the case of sale, at a level which is a pre-estimate that is representative of the marginal cost of non-production of gas to producers of gas (and which, to avoid doubt, may be a negative number).

E Allocation model:

An allocation model for the allocation of **balancing gas** and associated cost that has the following features:–

(a) **balancing gas is allocated–**

- (i) to the **users** who have an **imbalance** at the time the **balancing agent** commits to a **balancing action**; and

- (ii) in the proportions that the **user's imbalance** contributed to the need to take the **balancing action**:

(b) if a **balancing action** is made necessary in a **balancing zone (balancing zone A)** due in part or in whole to an **imbalance** in another **balancing zone (balancing zone B)** allocates–

- (i) the relevant proportion of **balancing gas** and cost to the **users** in **balancing zone B** who contributed to the **imbalance** in **balancing zone A**; and

- (ii) within **balancing zone B**, **allocates** the **balancing gas** sold or purchased and associated costs of that gas

- (A) to the **users** who have an **imbalance** at the time the **balancing agent** commits to a **balancing action**; and

- (B) in the proportions that the **user's imbalance** contributed to the need to take the **balancing action**:

- (C) all **balancing gas** purchased or sold as part of the **balancing action** is **allocated** to a **user**.

Draft