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27 April 2010

Ian Wilson
Principal Adviser, Infrastructure Access Group
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Dear Ian

Transmission Pipeline Balancing: Supplement to the October 2009 Statement of Proposal

1. Vector Gas Limited, On Gas Limited and Vector Gas Contracts Limited (**Vector**) welcome the opportunity to comment on the Supplement to the October 2009 Statement of Proposal and the updated draft Gas Governance (Balancing) Rules (**Rules**).

Vector's Position

2. Vector supports the promulgation of Rules to govern gas transmission system operation as a unified whole. This submission: (a) details the matters which have led Vector to the view that Rules are appropriate; (b) outlines some key issues we continue to have with the Rules proposed by the GIC; (c) attaches a mark-up of the Rules proposed by the GIC highlighting our issues and concerns; and (d) recommends that the GIC move forward to finalise a set of Rules to govern balancing.
3. Vector notes that in general it is an advocate of commercial solutions in preference to regulation. We operate in the electricity, gas and telecommunications industries and are more aware than most companies of the risks associated with regulatory intervention.
4. Nevertheless, our experience of transmission system operation and governance over the last three years, coupled with the industry's inability to make meaningful timely progress on issues (since long before the establishment of the Gas Industry Company), has led Vector to the conclusion that regulation is the only workable option for governance of system operation and security in gas transmission.

Regulation is Necessary – System-Wide Operation and Security

Governance of Energy System Security and Operation

5. The electricity and gas systems are inextricably linked and therefore issues with the smooth operation of the gas transmission system can have a significant impact on electricity supply. While the recent electricity reforms have moved to clarify and strengthen governance of the electricity System Operator arrangements, the governance of the same function for gas transmission is still embryonic. Given the degree of interdependence, in an ideal world there would be an agreed security standard for energy supply and shared expectations across both industries as to how they will operate together. The Government Policy Statements for both electricity and gas reflect the need for safe, efficient and reliable supply to consumers.
6. The operation of the gas transmission system now reflects the provisions of the set of contracts which were implemented to enable open access on Maui Development Limited's (**MDL**) system (and to end preferential access for some parties), in particular the Maui Pipeline Operating Code (**MPOC**) and the Vector Transmission Code (**VTC**) (a successor to the initial contracts). These arrangements were designed with the best of intentions, however three years' experience of their operation and ongoing industry disputes has highlighted the shortcomings of their interdependence in practice. More significantly, this period has exposed a lack of governance in relation to system security, the lack of co-ordination in gas transmission operation, and the inadequacy of the gas balancing arrangements.
7. In late 2009 the Industry Code Development (**ICD**) process outlined a package of measures required to address gas transmission balancing. It also highlighted that unified governance and co-ordination of system operation and security was considered unnecessary by some parties who would prefer to remain isolated from actual consumer demand. Vector remains supportive of a package of measures being implemented to improve the arrangements, however we also remain firmly of the view that unified governance and co-ordination of system operation and security is crucial and that industry based processes will not deliver that package.

Decline in Energy System Security

8. The first few months of Maui open access (from December 2006) saw some operational problems due to retrospective adjustment of Operational Imbalance numbers and an over-supply situation that summer. Following the effective cessation of renominations in mid-2007 by Legacy Gas parties (formalised in December 2008), the initial system issues settled down to some extent.
9. However the evolution of MDL's standard operating procedures for Balancing Gas (**SOP**) (commencing December 2008) has coincided with a significant decline in system security. Over the last three years the frequency of contingency events and Operational Flow Orders (**OFOs**) not initiated by a Welded Party but affecting Vector's Welded Points has tripled. Even if the extreme over-supply scenario of January 2007 is included in the analysis the frequency of contingency events and OFOs has doubled. In particular, there has been a marked increase since the December 2008 SOP, as Figure One illustrates.
10. Vector understands that MDL has entered into fewer balancing gas transactions over the years, however for Vector and the users of its system, this reduction in transactions has been accompanied by a significant decline in system security.

Monthly Summary of non Welded Party initiated Curtailments and OFOs affecting Vector Welded Points Jan 2007 to Feb 2010

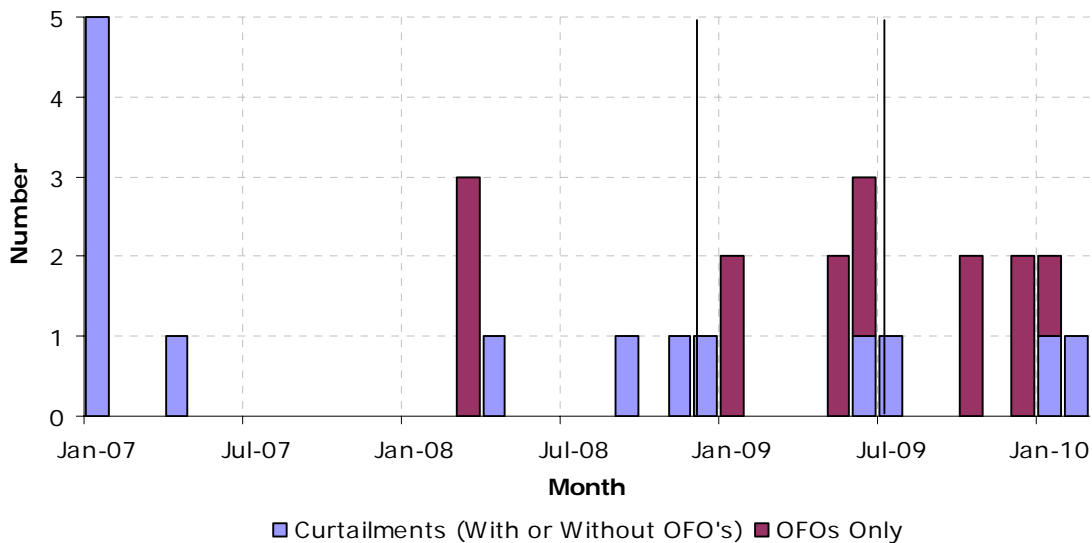


Figure One: Decline in System Security

Significant Consumer Cost Risk in the Absence of Robust Governance

11. Under the MPOC, MDL has considerable freedom in respect of the content of the SOPs it has in place to operate its part of the system. The current guidelines in MDL's balancing SOP provide for a wide variation in linepack which is likely to have led to the reduction in the number of balancing gas transactions for MDL (and the associated reduction in exposure to non-payment). It should not however be assumed that this mode of operation will continue indefinitely. Without unified governance and co-ordination of system operation, this SOP can be modified at any time as MDL sees fit.
12. Specifically, we note that the incentives for MDL to continue with this SOP are eliminated if MDL is guaranteed payment for balancing gas transactions. It is conceivable that the current SOP could be altered so that end-of-day Operational Imbalance is eliminated on the next day – thus providing a more stable linepack but at considerable additional cost. MDL's proposed MPOC Change Request includes multiple mechanisms to guarantee cost recovery for MDL so this scenario poses a significant risk of increasing costs.
13. The accuracy of nominations on the Maui Pipeline in relation to actual demand has not improved over the last few years. In fact no link exists between actual consumer demand for gas (other than Methanex and Huntly power station) and supply of gas into the transmission system. Vector believes the accuracy of nominations will not improve until such a link exists, nor will users' ability to manage their own position (i.e. self-balancing).
14. Figure Two shows the aggregate end-of-day Operational Imbalance for the days when there was a negative imbalance at the Rotowaro Welded Point over the last three years. There is no discernable pattern or improvement. The analysis of positive imbalances and imbalances at the Frankley Road Welded Point demonstrate the same lack of improvement. If MDL was to change its balancing

SOP to eliminate end-of-day Operational Imbalance on the next day, it is unlikely users could suddenly become proficient at self-balancing, particularly in the absence of linked nominations. With no improvement in self-balancing by transmission system users, consumers would face an additional \$38 million in annual costs.

15. Robust governance is crucial to keeping consumer costs down.

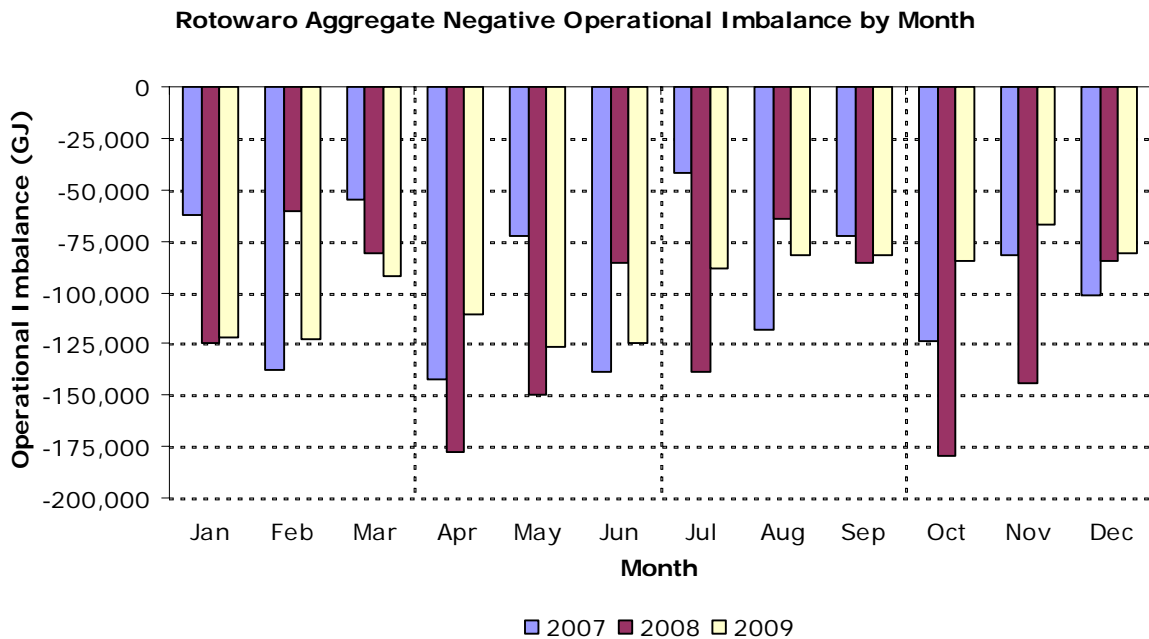


Figure Two: End-of-Day Negative Operational Imbalance at Rotowaro

Heading for Further Security Decline

16. There is a lack of a co-ordinated approach to change in the gas industry. This leads to the promulgation of Change Requests under the MPOC and VTC that are reductionist in design and the product of self-interest. As such they typically have consequences (sometimes unintended) in other parts of the system for other users.

17. By way of example, MDL's currently lodged Change Request requires Vector to curtail receipts and/or deliveries almost every hour, while preserving MDL's unilateral right to change its balancing SOP at will and guaranteeing MDL payment for a level of balancing services which users may not want. Instead of promoting a unified solution to balancing, the Change Request is fundamentally incompatible with Vector's regime. Our shippers would not get the services they have contracted for and frequent curtailments are not in the interests of transmission users or gas and electricity consumers.

18. Figure Three shows the hourly imbalances at Rotowaro and Frankley Road Welded Points for the week before Christmas 2009 (any other period will show similar outcomes). The symbols indicate when the TCC and Southdown power stations (Otahuhu was off line) would have been curtailed if the proposed Change Request was in force, as well as when shippers' receipts into Vector's system would have been curtailed. In addition to putting electricity supply at risk, the proposed

obligations on Vector to curtail will undermine users' ability to self balance as they will not get the receipts and/or deliveries they planned.

19. Figure Three is more fully explained in Appendix One as those seven days also provide insight into the lack of co-ordination in the operation of the system as a whole under the current regime. On 22 December Vector was issued with an OFO at 6.57 pm to immediately reduce the transfer of gas from the Maui Pipeline to the level of our scheduled quantities. As it turned out shipper nominations effective at 7 pm increased the hourly scheduled quantity. If physical gas flow had been reduced, gas deliveries to Southdown power station would have been restricted.
20. Vector is firmly of the view that key issues with significant flow on effects, such as balancing, require a more structured modification/change approach if an efficient and effective Government Policy Statement compliant solution is to be found.
21. At the very least, a security of supply standard needs to be agreed and governed in a robust manner to ensure electricity and gas supply to consumers is not jeopardised. It may be the case that users prefer a higher security standard and therefore balancing cost. On the hand they may be comfortable with more curtailments and lower cost. This issue can not be left to the discretion of one party. Rather it needs to be understood, determined and implemented to support supply across the electricity and gas systems.
22. Vector strongly doubts users and consumers would opt for a regime that results in it having to curtail power stations on its system.

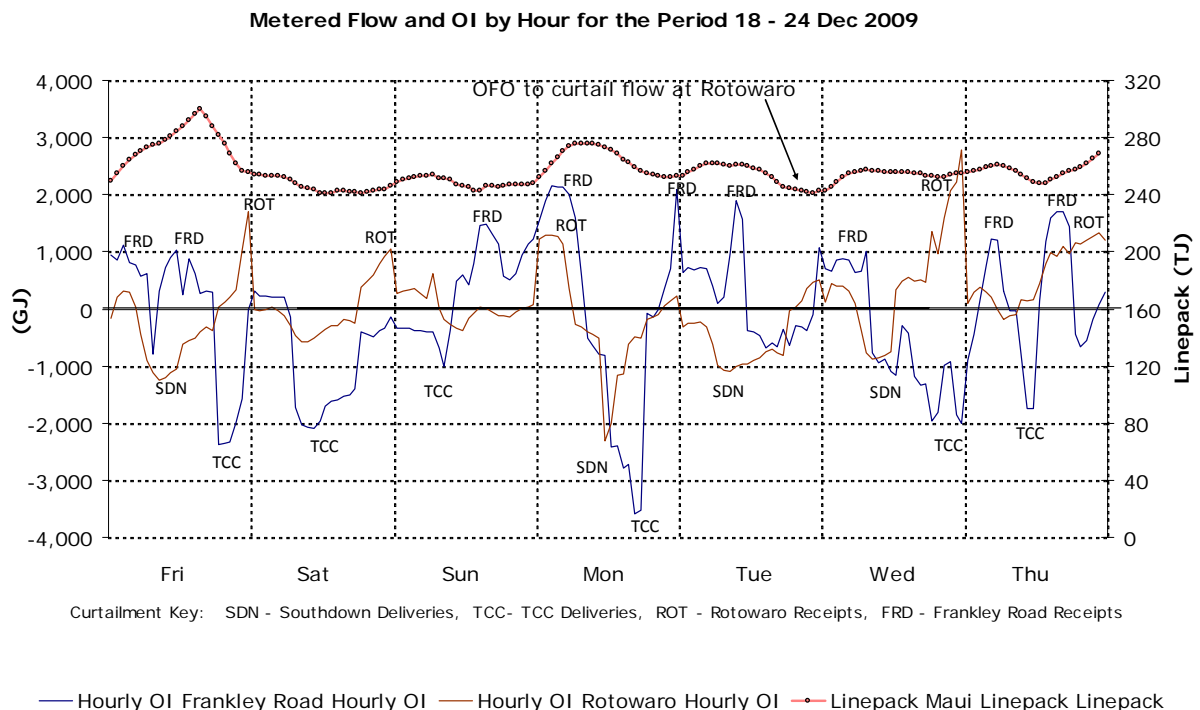


Figure Three: Curtailments Due to Proposed MPOC Obligations

Regulation is Necessary – Industry Governance and Decision-making

23. The regulation making powers of the Gas Industry Company (GIC) were contemplated and developed to deal with issues of this very nature – significant and complex issues with wide-ranging effects for a number of industry participants and their businesses. It was well recognised by Government and the industry participants of the then industry body, the Gas Industry Steering Committee (forerunner to the GIC), that regulation making powers were necessary to overcome the commercial self-interest of participants on key issues. Hence industry participants requested that the Government introduce a statutory body (the GIC) with regulatory and compliance powers.
24. The MPOC and VTC do not (nor would any contractual arrangement) provide an adequate framework for robust governance of system operations and security standards in gas transmission. It is apparent that parties will take unilateral action to improve their commercial position via the change processes without regard to system-wide consequences let alone potential impacts on the electricity system. Vector believes the current change provisions may also be used to stymie the implementation of some of the measures necessary to provide a comprehensive solution.
25. Two recent developments reinforce this view. These are, firstly the ICD process and secondly MDL's proposed Change Request.
26. The ICD process which concluded in late 2009 led to a Memorandum of Understanding (MOU). The MOU, however, covered in the main, only high level matters. It did not encompass agreement on detailed issues, which to reach agreement on invariably requires parties to give up entrenched commercial positions. Furthermore, the ICD was non-binding and most of the parties that "signed up to it" did so with many caveats, to such an extent that the MOU became meaningless.
27. Similarly, MDL's proposed Change Request has not been endorsed by the industry. Many industry players are opposed to key elements of the Change Request. Vector understands that several parties (including itself) are developing their own CRs to modify MDL's proposals which are unworkable and undesirable. This is not an efficient use of industry time and resource.
28. Furthermore, as identified by the GIC in their own assessment, MDL's Change Request in the main provides for inferior outcomes than would be provided under Rules, particularly in relation to those criteria which provide for an integrated system and improved governance.
29. The governance of system operation and security has important consequences for many parties. Put simply these are policy issues which require robust oversight. In the electricity industry these matters are governed by an extensive rulebook and will be overseen by the newly established Security and Reliability Council, however they remain dependent on the effectiveness of the governance of gas transmission system operation and security. On the gas side, the current approach is lacking.

Regulation is Necessary - Cost-Benefit Analysis Supports Regulation

30. The NZIER has provided an independent cost-benefit analysis (CBA) which confirms that in most scenarios regulation will provide a better result. In Vector's view, the CBA is extremely conservative and materially underestimates the net benefits that would be delivered by regulation in comparison to further attempts to realise effective system operation via a negotiated contractual approach.

Efficiency Benefits Underestimated

31. Dynamic efficiency benefits, as recognised by NZIER in their assessment, would make up the greatest proportion of the benefits yet they are not included. Improvements in transmission balancing will incentivise ongoing innovation and investment which are particularly relevant to promoting the long-term benefit of consumers. The importance placed on realising and considering dynamic efficiency gains is evident in the Commerce Commission's approach to CBA.
32. The stability and sustainability of a rules based arrangement (due to the certainty it provides to market participants) and its enduring benefits to industry and consumers (as efficiency gains are passed on to consumers) are major benefits and should therefore have been factored into the analysis.
33. Vector believes that NZIER adopted an extremely cautious approach in lowering the efficiency improvements it did model from 1% to 0.5% between its draft and final report. While we recognise that there is considerable uncertainty in predicting the efficiency benefits we believe that a 1% price drop is more reflective of the efficiency gains that would be achieved when all forms of efficiency are considered.

Unrealistic Baseline

34. The rules based approach is compared against a baseline scenario which is very unlikely to eventuate. As outlined above, improvements on substantive matters in the gas industry via contract are unlikely in the short or long terms. Hence the need for the establishment of the GIC itself.

Greater Reduction in Dispute Costs

35. The reduction in the costs of disputes on balancing issues due to rules has been underestimated. For the optimistic scenario the CBA models that the rules would avert one major dispute every two years, with an average benefit of \$25,000 per year. Further, it models that one major dispute would be averted every five years with an average benefit of \$10,000 per year.
36. Vector has had more experience than any party with balancing related disputes and believes the cost reductions would be much higher. We believe more than one dispute a year will be averted (currently we have more than 5 active balancing disputes and have spent the better part of the last 4 years in active disputes with MDL and shippers on balancing issues). The average cost reduction to the industry is likely to be greater than \$100,000 per annum. Given the nature of the industry, a contract based approach is unlikely to deliver any reduction.

Net Benefit of Regulation Confirmed

37. Notwithstanding these matters, the CBA confirmed a positive net benefit for three of the four modelled scenarios. In Vector's view the probability of an effective code change is very low and so the scenario should be given little weighting. The more likely scenarios are the two that presume a code change process will be unsuccessful and in which the rules based approach provides a positive net benefit.

Substantive Issues With New Draft Rules

38. Vector's main, and continued, concerns with the Rules are set out in the following table. We have also attached a mark-up of the Rules to address other substantive and drafting issues (see Appendix Two).

Issue	Comment
Appointment of the balancing operator	It is more appropriate that the GIC appoints the balancing operator
Funding of the balancing operator	It is more appropriate and efficient for the GIC to levy users directly for all of the costs and liabilities associated with the balancing operator's appointment and ongoing operation, irrespective of who appoints the balancing operator
Underwriting of the balancing operator	The underwriting of the balancing operator's costs should be provided by the GIC and levied to the users as part of the ongoing fee
GIC discretion to approve the balancing plan	The GIC should be obliged to approve a balancing plan that assists with meeting the purpose of the Rules
Timing of go-live date	The balancing plan should not go-live until transmission system arrangements, IT systems and business processes are consistent
Obligation to both appoint a balancing operator and agree a balancing plan	Any obligations on transmission system owners to appoint the balancing operators and agree a balancing plan, should be split so agreeing a balancing plan is not conditional on appointing a balancing operator
Potential lack of TSO input into the balancing plan	If the GIC writes the balancing plan, it should do so in conjunction with the transmission system owners

Concluding Remarks

39. Whilst Vector still has concerns with the substance of the particular Rules proposed by the GIC, we believe the GIC has followed a reasonable process to date in coming to this point.
40. We believe the proposed Rules should be modified to address the concerns we've outlined above and the usual process followed to have them passed into law. We believe little would be served by MED or any other Government agency intervening to re-do work already completed by the GIC and would see such an approach as problematic from both a policy and an industry perspective.

41. Vector remains available to discuss any aspect of this submission at short notice.
Please contact Katherine Shufflebotham on 04 803 9043.

Yours sincerely

A handwritten signature in blue ink that reads "John Rampton". The signature is written in a cursive style with a large initial 'J'.

John Rampton

Manager, Industry Governance and Policy

Appendix One : Gas Transmission Operation - Impact on Energy Security

The seven day period 18 to 24 December 2009 provides an illustration of gas transmission system operation under the current regime and allows an assessment of the impact of proposed changes. Chart 1 illustrates how the linepack varied on the Maui Pipeline and Vector's North and South (SKF) Pipelines over the period. It can be seen that there is scope for some linepack variation on the Maui and SKF Pipelines. While there is a variation in pressure at the inlet to the Rotowaro compressor station as shown on Chart 1 the linepack in the North Pipeline is maintained in a much tighter band to ensure supply.

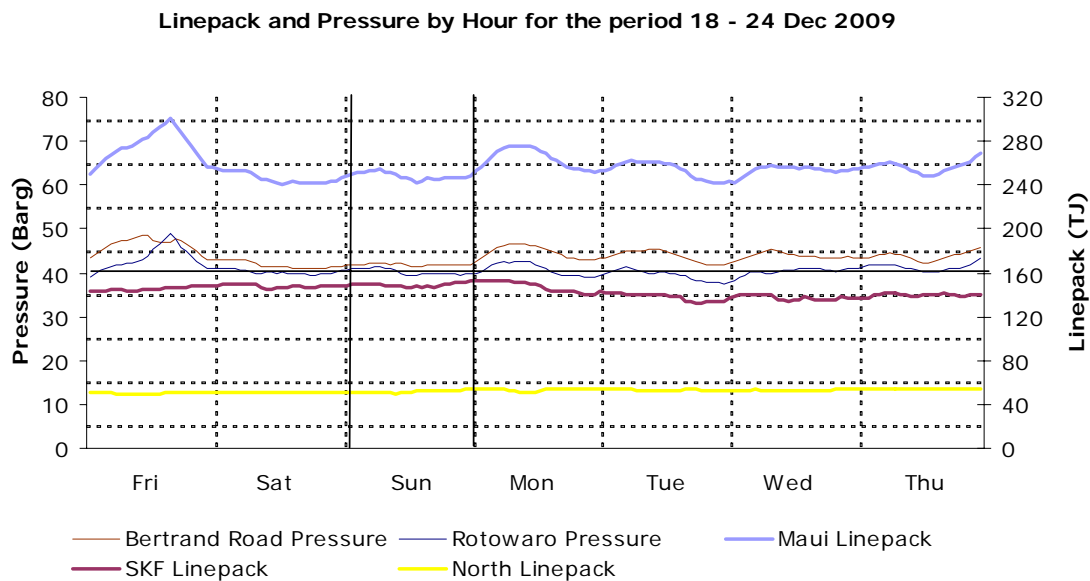


Chart 1: Current System Operation – Variation of Linepack & Pressure

Chart 2 illustrates the operation of the three main power stations on Vector's system during this period. Both Southdown and TCC varied their demand while Otahuhu was offline throughout the period. While this Chart shows the Maui linepack varying, it is not possible to conclude a direct correlation with power station demand.

Metered Flow and OI by Hour for the Period 18 - 24 Dec 2009

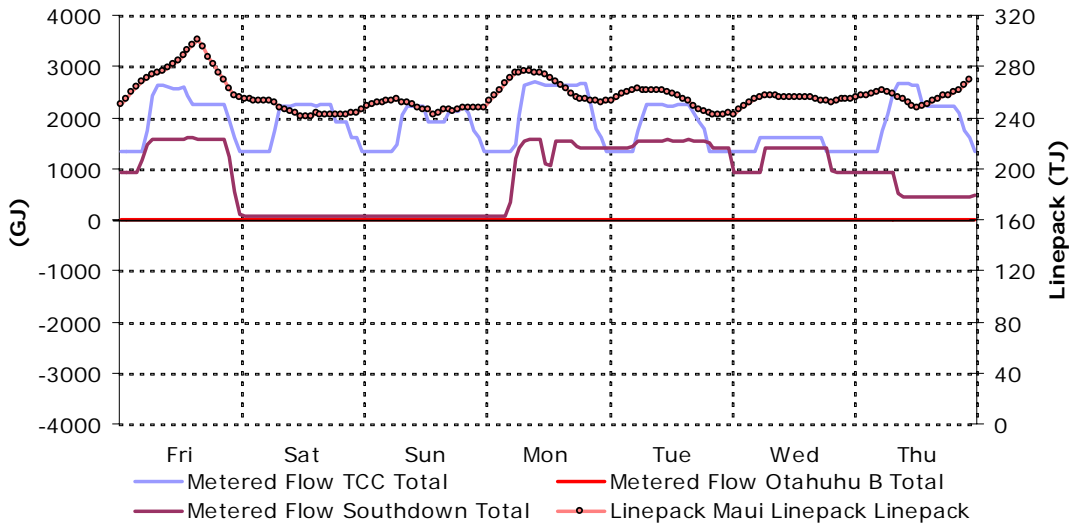


Chart 2: Current System Operation – Main Power Stations on Vector System

In Chart 3 the Operational Imbalance (OI) at Frankley Road is shown with the TCC demand. There was some correlation between the OI being negative and increased power station demand. However, it was not always the case. For example, on the Saturday there was a large daily OI, whereas on the Monday the daily OI was small though there were large positive and negative hourly OIs. The nominations to Vector's Welded Points are constrained by intra-day cycle times and the hourly averaging applied to nominated quantities. Hence it is difficult for nominations to match actual demand. Nevertheless, the aggregate performance across a day varies and would benefit from a more direct linkage across the system.

Metered Flow and OI by Hour for the Period 18 - 24 Dec 2009

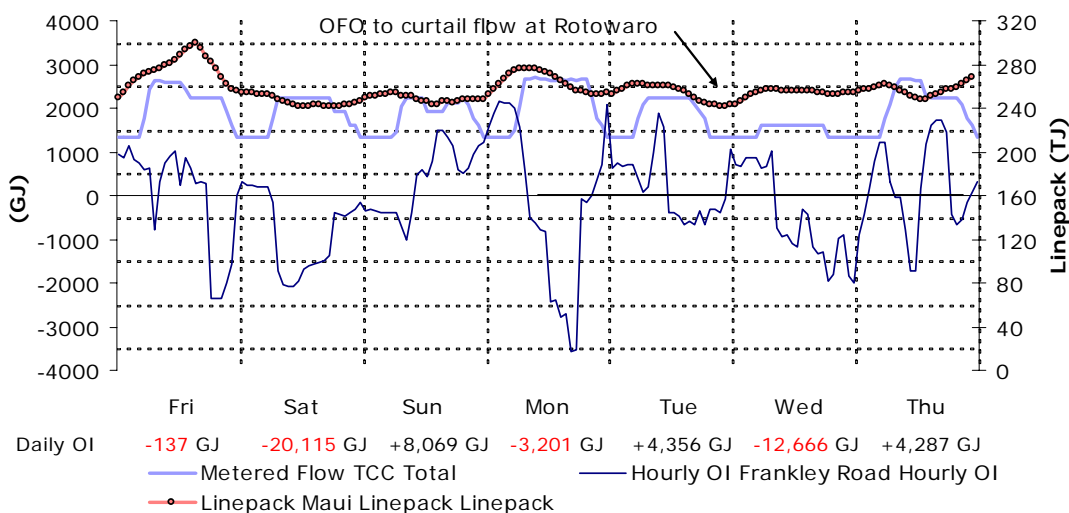


Chart 3: Current System Operation – Frankley Road OI & TCC Power Station

Chart 4 shows the OI at Rotowaro with the Southdown demand (Otahuhu being offline). Again there was some correlation between the OI being negative and increased power station demand. However, there was also OI when Southdown was offline. In comparison to Chart 3, the daily OIs were smaller before Tuesday however an Operational Flow Order was issued for Rotowaro in the evening (noting in Chart 3 that Frankley Road was flowing to a similar negative hourly OI at the time).

It is clear that parties in different parts of the transmission system contributed to the circumstances where it was thought necessary to issue an OFO at Rotowaro. As the nominations (which became effective minutes after the OFO was issued) increased the scheduled quantity to match the gas flow, it was not necessary to curtail flow at Rotowaro. Such a curtailment would have impacted Southdown's generation during the evening electricity peak yet the misalignment of nominations and actual demand was not as marked as it had been on previous days when no action was taken.

System operation needs to be considered as a whole since individual actions have consequences in other parts of the system. Setting operating procedures for one subsection (such as the Maui Pipeline) makes no more sense than if Transpower operated the HVDC link in isolation from the rest of the electricity transmission system.

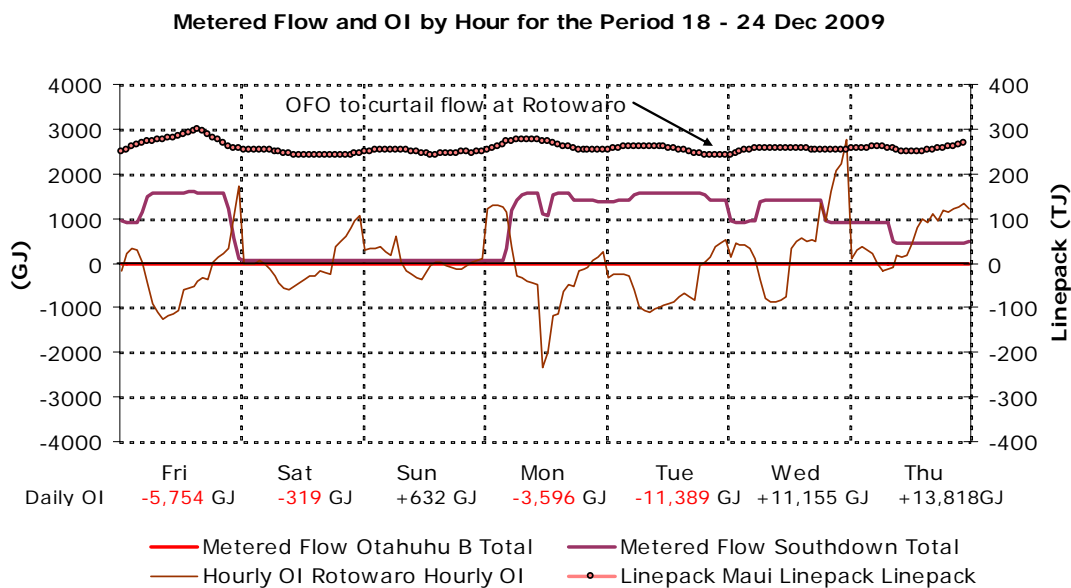
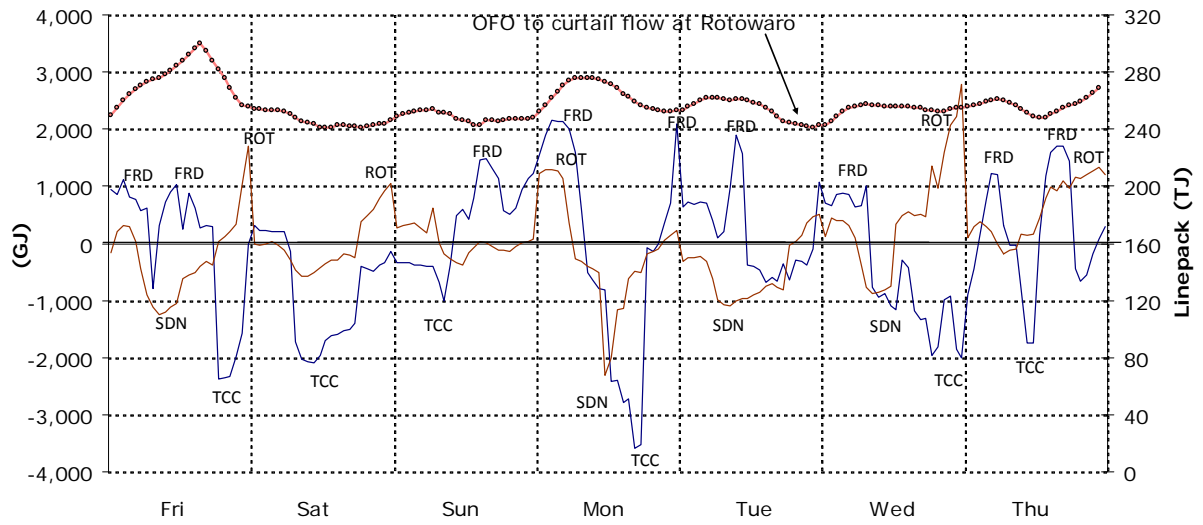


Chart 4: Current System Operation – Rotowaro OI & Southdown Power Station

Chart 5 demonstrates what may have occurred if the gas flow obligations in the proposed Maui Change Request had been in force over this same seven day period. The gas deliveries to Southdown and TCC power stations would have been curtailed four and six times respectively. Shipper's receipts into Vector's system would have been curtailed five times at Rotowaro and nine times at Frankley Road. This situation is likely to have resulted in much worse self-balancing performance by shippers.

The system needs to be operated as a single system to an agreed security standard with nominations which link actual demand to supply.

Metered Flow and OI by Hour for the Period 18 - 24 Dec 2009



Curtailment Key: SDN - Southdown Deliveries, TCC- TCC Deliveries, ROT - Rotowaro Receipts, FRD - Frankley Road Receipts

— Hourly OI Frankley Road Hourly OI — Hourly OI Rotowaro Hourly OI — Linepack Maui Linepack Linepack

Chart 5: Likely Curtailments due to Proposed MPOC Obligations

Appendix Two: Mark up of the Balancing Rules

DRAFT GAS GOVERNANCE (BALANCING) RULES

Contents

- 1. [Title](#)
- 2. Commencement
- 3. Purpose
- 4. Outline

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Part 1

General Provisions

- 5. Interpretation
- 6. Users' obligation in relation to balancing
- 7. Users' obligation to provide information
- 8. Transmission system owners' obligation to facilitate balancing
- 9. Transmission system owners to provide transmission system information
- 10. Transmission system owners to provide transmission services for balancing gas
- 11. Other obligations of transmission system owners in relation to balancing
- 12. Publication of transmission system

Part 2

Balancing

- 13. [Functions of the balancing operator](#)
- 14. Functions to be carried out independently
- 15. Management of linepack
- 16. Rules for transactions relating to balancing gas market
- 17. [Circumstances in which transactions may be undertaken on other terms](#)
- 18. Terms of balancing gas transactions
- 19. Rules for allocation of balancing gas
- 20. [Notification of allocations and cash-out price of balancing gas](#)
- 21. Payment for balancing gas purchased
- 22. Payment of proceeds of sales of balancing gas
- 23. Further provisions relating to payment
- 24. Records of transactions
- 25. [Amendments to allocations](#)
- 26. Monthly reports
- 27. Meaning of "appointer"

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Part 3

Appointment of balancing operator, development of balancing plan and funding

Subpart 1 General provisions

- 28. [Appointment of balancing operator by appointer](#)
- 29. [Terms of appointment of balancing operator](#)
- 30. [Publication of balancing operator service provider agreement](#)
- 31. [Consequences of change of application of subpart](#)
- 32. Criteria for approval of balancing plan
- 33. Publication of balancing plan
- 34. [Date balancing plan or amended balancing plan comes into force](#)
- 35. Expiry of urgent amendments

Subpart 2

Appointment of balancing operator by joint transmission system owners

- 36. Application of subpart
- 37. [Joint obligations of transmission system owners in relation to appointment of balancing operator and preparation of balancing plan](#)
- 38. [Procedure for preparation and consultation on draft balancing plan](#)
- 39. [Decision by industry body on draft balancing plan](#)
- 40. [Procedure for amendment to approved balancing plan](#)
- 41. [Procedure for minor and technical or urgent amendments to the balancing plan](#)
- 42. [Procedure for urgent, non- minor and technical amendments to balancing plan](#)

Subpart 3 *Appointment of balancing operator by industry body*

- 43. Application of this
- 44. [Industry body's obligations if subpart applies](#)
- 45. [Procedure for preparation and consultation on balancing plan](#)
- 46. [Procedure for amendment to approved balancing plan](#)
- 47. [Procedure for minor and technical or urgent amendments to the balancing plan](#)
- 48. [Procedure for urgent, non-minor and technical amendments to balancing plan](#)
- 49. Development fee

Subpart 4

Funding

- 50. How and when development fee must be paid
- 51. Ongoing fees
- 52. How and when estimated ongoing fees payable
- 53. How and when actual ongoing fees payable

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- ~~Deleted: Procedure for urgent, n ... [24]~~

54. General provisions regarding fees
55. Industry body to commission performance audits

Part 4

Miscellaneous

56. Provision of information to auditor
57. Auditor to prepare draft audit report
58. Auditor to prepare final audit report
59. Confidential information in audit reports
60. Publication of final audit reports
61. Use of final audit reports
62. Giving of ordinary notices
63. When ordinary notices taken to be given
64. Urgent notices
65. Safety override
66. [Relationship with transmission system arrangements](#)
67. Relationship with Gas Governance (Critical Contingency Management) Regulations 2008

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Schedule

Requirements for balancing plan

Draft

1. Title

These rules are the Gas Governance (Balancing) Rules 2010.

2. Commencement

2.1 Rules 6, 13.1.1, 13.1.2, and 15 come into force, on the date notified by the industry body in the *Gazette* in accordance with rule 33.3.2.

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 efficient, unified management of aggregate imbalance in the transmission system.

4. Outline

4.1 These rules provide for –

4.1.1 the appointment of –

- (a) a single balancing operator and development of a unified balancing plan (to be approved by the industry body) by transmission system owners; or
- (b) in certain circumstances, a single balancing operator and development of a unified balancing plan by the industry body; and

4.1.2 the powers and functions of the balancing operator to –

- (a) purchase and sell gas when there is aggregate imbalance; and
- (b) allocate gas and costs associated with the purchase and sale of gas under the rules; and

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

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Part 1

General provisions

5. Interpretation

5.1 In these rules, unless the context otherwise requires -

Act means the Gas Act 1992

aggregate imbalance means the sum of imbalance in a balancing zone when thresholds in the balancing plan are or may be breached

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balance has the meaning in rule 5.2

balancing action means one or more transactions to –

- (a) purchase balancing gas committed to at the same time for the purposes of rule 15.1.1; or
- (b) sell balancing gas committed to at the same time for the purposes of rule 15.2.1

balancing gas means gas that is sold or purchased as part of a balancing action

balancing market means the market or markets established or accessed by the balancing operator to comply with rule 16.1

balancing operator means a person appointed as the balancing operator by the industry body under rule 28.1

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balancing plan—

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- (a) means a balancing plan approved by the industry body and in force under subpart 1 of Part 3; and
- (b) includes any amendment to that plan

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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 *[Note: Conform to VTC and MPOC to ensure that Auckland and Wellington anniversary days are not business days.]*

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cash-out amount, means the product of the gigajoules of balancing gas allocated to a user in respect of a balancing action and the cash-out price for that balancing gas

cash-out price means the price per gigajoule determined by the balancing operator under rule 20.1.2 in respect of the sale or purchase of balancing gas allocated to a user

clearing price means, -

- (a) if rule 16.4.3 applies in relation to the purchase of balancing gas by the balancing operator in a balancing action, the highest sum of—
 - (i) the offer price (per gigajoule) for any balancing gas accepted in that balancing action, plus
 - (ii) any transmission charges payable by the balancing operator to transmit that balancing gas from the purchase location to the reference location (per gigajoule); and
- (b) if rule 16.5.3 applies in relation to the sale of balancing gas by the balancing operator in a balancing action, the lowest sum of—
 - (i) the offer price (per gigajoule) for any balancing gas accepted in that balancing action, less
 - (ii) any transmission charges payable by the balancing operator to transmit that balancing gas from the reference location to the purchase location (per gigajoule); and
- (c) if rule 16.4.3 does not apply in relation to the purchase of balancing gas by the balancing operator in a balancing action, the weighted average of the sum of—

- (i) the offer price (per gigajoule) for any balancing gas accepted in that balancing action; plus
 - (ii) any transmission charges payable by the balancing operator to transmit that balancing gas from the purchase location to the reference location (per gigajoule); and
- (d) if rule 16.5.3 does not apply to the sale of balancing gas by the balancing operator in a balancing action, the weighted average of the sum of –
- (i) the offer price (per gigajoule) for any balancing gas accepted in that balancing action; less
 - (ii) any transmission charges payable by the balancing operator to transmit that balancing gas from the reference location to the purchase location (per gigajoule)

commencement date means the date referred to in rule 2.2

directly managed, in relation to a balancing zone, means a balancing zone that is to be managed directly through the sale and purchase of balancing gas in accordance with rules 15.1 and 15.2

go-live date means the day rules 6, 13.1.1, 13.1.2 and 15 come into force under rule 2.1, [as notified in the *Gazette* pursuant to rule 33.3.2](#)

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imbalance has the meaning in rule 5.2

indirectly managed, in relation to a balancing zone, means a balancing zone that is to be managed through the taking of gas from or injection of gas into a directly managed balancing zone, for example, by pressure regulation

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

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

interconnection agreement means any agreement or customary arrangement between a transmission system owner and another person relating to the receipt of scheduled or agreed quantities of gas into or delivery of scheduled or agreed quantities of gas out of a part of the transmission system owned by the transmission system owner

[Note: Vector's interconnection agreements do not currently contain gas nomination provisions, and nor do interconnected parties take gas under these agreements. This means that these rules will not pass on balancing costs to large station owners, producers and non-open access transmission system owners connecting to the Vector system.]

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interconnection point means any point where —

- (a) an interconnected party's facilities connect to the transmission system; or
- (b) 2 parts of the transmission system owned by different transmission system owners connect

linepack, in relation to a part of the transmission system, means the quantity of gas in that part of the transmission system

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

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

reapplication date means the date, notified by the Minister in a notice in the *Gazette* under rule 49.3, from which subpart 2 of Part 3 reapplies

reference location means the location or balancing zone used by the balancing operator to evaluate balancing gas offers 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 transmitted through all or part of the transmission system

target linepack, in relation to a part of the transmission system, means the target quantity of linepack for that part of the transmission system 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 charge means an amount payable to a transmission system owner for transmission of gas in a part of the transmission system

transmit, in relation to gas, means to receive a quantity of gas at one point on the transmission system and deliver an equivalent quantity of gas to another point on the transmission system

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

transmission system arrangements mean any or all of the following -

- (a) a transmission system code:
- (b) an agreement entered into under or in accordance with a transmission system code (for example, a transmission services agreement or gas transfer agreement):
- (c) an agreement relating to access to and use of a part of the transmission system entered into other than under or in accordance with a transmission system code:
- (d) an agreement relating to title to gas that is injected into, taken from, or transmitted within the transmission system:
- (e) the Gas (Downstream Reconciliation) Rules 2008

transmission system code means MPOC, VTC, and any other code that sets out rules covering access, use, and operation of a part or all of the transmission system, as amended from time to time

transmission system owner means –

- (a) a person who owns all or any part of the transmission system; and
- (b) if two or more persons jointly own any part of the transmission system, those persons jointly and severally

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) its activities as a shipper, trader, or interconnected party; or
 - (B) its obligation to balance other than in regard to its activities as a shipper, trader, or interconnected party; and
- (b) does not include the balancing operator in relation to the performance of the balancing operator's functions

Vector Transmission Code or VTC means the code, issued by the owner of that part of the transmission system identified as the Vector pipeline on the map published under 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) a shipper, to ensure that the shipper's receipts and deliveries of gas match; and

- (b) a trader, to ensure that the trader's quantities of gas purchased and sold match; and
- (c) [an interconnected party, to ensure that the same quantity of gas as agreed or scheduled under the terms of an interconnection agreement with the relevant transmission system owner is taken from or injected by that party into the transmission system; and]
- (d) a transmission system owner (other than in regard to its activities as a shipper, trader, or interconnected party), to ensure that the linepack in a part of the transmission system owned by the transmission system owner matches the aggregate of the following:
 - (i) the target linepack of that part of the transmission system:
 - (ii) the aggregate imbalance of all shippers, traders and interconnected parties in that part of the transmission system (including the imbalance of transmission system owners in those capacities); and

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imbalance means, in relation to -

- (a) a shipper, the amount by which the shipper's receipts and deliveries of gas as determined under relevant transmission system arrangements do not match (except to the extent any such mismatch is attributable to an interconnected party under such transmission system arrangements); and
- (b) a trader, the amount by which the trader's quantities of gas purchased and sold as determined under relevant transmission system arrangements do not match; and
- (c) an interconnected party, the amount by which the quantity of gas taken from or injected into the transmission system by that party differs from that agreed or scheduled under the terms of any relevant interconnection agreement; and
- (d) a transmission system owner (other than in regard to its activities as a shipper, trader, or interconnected party), the amount by which the linepack of a part of the transmission system owned by that person differs from the aggregate of the following:
 - (i) the target linepack of that part of the system:

- (ii) the aggregate imbalance of all other shippers, traders and interconnected parties in that part of the transmission system (including the imbalance of transmission system owners in those capacities); and
- (e) a balancing zone, the aggregate imbalance of all users in that zone.

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Users' obligations

6. Users' obligation in relation to balancing

- 6.1 Subject to rule 6.5 and for the purpose only of enabling the balancing operator to manage aggregate imbalance, a **user** must use reasonable endeavours (having regard at all time to the information available to it) –
 - 6.1.1 to **balance** within each **balancing zone**; and
 - 6.1.2 if, despite rule 6.1.1, the **user** has an **imbalance** in any **balancing zone**, to return the **user's imbalance** to zero.
- 6.2 If a **user** has an **imbalance** in a **balancing zone** –
 - 6.2.1 the **user** is –
 - (a) liable to pay to the **balancing operator** the **cash-out amount** of any **balancing gas** purchased by the **balancing operator** and allocated to the **user** in respect of such imbalance under these rules; or
 - (b) entitled to receive from the **balancing operator** the **cash-out amount** of any **balancing gas** sold by the **balancing operator** and allocated to the **user** in respect of such imbalance under these rules; and
 - 6.2.2 the **user's** title to gas in the **transmission system** under any relevant **transmission system arrangements** is subject to adjustment to reflect any **balancing gas** purchased or sold by the **balancing operator** and allocated to that **user** under these rules.
- 6.3 Subject to rule 6.5, but despite anything else in these rules, if 2 or more **transmission system owners** own parts of the **transmission system** that are within a single **balancing zone**, those **transmission system owners**–

- 6.3.1 must each use reasonable endeavours to ensure –
- (a) that the **linepack** in the **balancing zone** matches the aggregate of the following:
 - (i) the **target linepack** for that **balancing zone**;
 - (ii) the aggregate **imbalance** of all **shippers, traders, and interconnected parties** in that **balancing zone** (including the **imbalance** of the **transmission system owners** in those capacities); and
 - (b) any amount by which the **linepack** of the **balancing zone** differs from the aggregate of the matters listed in paragraphs (a)(i) and (ii) is returned to zero; and
- 6.3.2 are jointly liable or entitled, as applicable, to be allocated **balancing gas** by the **balancing operator** in respect of any **imbalance** that has arisen from the failure of the **transmission system owners** to ensure that the **linepack** in the **balancing zone** matches the aggregate of the matters listed in rule 6.3.1(a)(i) and (ii); and
- 6.3.3 are jointly liable to pay or entitled to receive the **cash-out amount** of any **balancing gas** allocated to them in accordance with rule 6.3.2.
- 6.4 The provisions of these rules and the **balancing plan** apply with any necessary modifications in the circumstances specified in rule 6.3 as if the 2 or more **transmission system owners** were a single **transmission system owner**, and the definitions of **balance, imbalance** and **user** in rule 5 were read in light of the joint obligations in rule 6.3.1.
- 6.5 Rules 6.1 and 6.3.1 do not apply in relation to a **balancing zone** during any period where a critical contingency has been declared and not terminated under the Gas Governance (Critical Contingency Management) Regulations 2008 in respect of a part of the **transmission system** that falls within the **balancing zone**.

[Note: The rules should specify in advance that each transmission system owner is liable only under rules 6.3.2 and 6.3.3 in proportion to its ownership of the shared balancing zone, or on some other equitable basis.]

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7. Users' obligation to provide information

7.1.1 A **user** must, if requested by the **balancing operator**, as soon as practicable provide any information to the **balancing operator** that is in its possession, or over which it has control; and

7.1.2 is reasonably required by the **balancing operator** to enable the **balancing operator** to carry out its functions provided that the disclosure of such information is not in breach of any duty of confidentiality owed by the user.

Transmission system owners' obligations

8. Transmission system owners' obligation to facilitate balancing

8.1 Subject to rule 8.2, each **transmission system owner** must use reasonable endeavours to ensure its operating procedures and contractual arrangements are consistent with these rules. *[Note: The extension of a transmission system owner's obligations to reference the obligations of users should be avoided for all the reasons previously submitted by Vector.]*

Deleted: and do not unreasonably prevent users complying with the obligations in rule 6.1

8.2 Nothing in these rules requires a **transmission system owner** to take any action that would unreasonably interfere with the transmission of gas in a part of the **transmission system** that is owned by that **transmission system owner**, or do anything or omit to do anything that would cause it to be in breach of any laws or any transmission system arrangements.

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9. Transmission system owners to provide transmission system information

9.1 Each **transmission system owner** must ensure that any of following information that is reasonably required by the **balancing operator** for the performance of the **balancing operator's** functions under these rules is made available to the **balancing operator** in relation to any part of the **transmission system** owned by the **transmission system owner**:

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 whether **balancing gas** transactions and any related transmission of **balancing gas** have been carried out: *[Note: What form will this information take in the absence of nominations to the end-user?]*
- 9.1.5 information about the **imbalance** in each **balancing zone** including –
- (a) details of each **user's imbalance** sufficient to enable the **balancing operator** to allocate **balancing gas** and its associated **cash-out amount** under these rules; and
 - (b) details of any amendments made in accordance with **transmission system arrangements** to the information provided about **users' imbalances** that could affect allocations of **balancing gas**:
- 9.1.6 historical **imbalance**, **linepack**, or pressure data:
- 9.1.7 metering (or other equipment) data on the amount of gas received or taken:
- (a) through each **interconnection point**; and
 - (b) between each **balancing zone** (if there is no **interconnection point** between the zones):
- 9.1.8 the quantity of gas (if any) agreed between the **transmission system owner** and an **interconnected party**, or otherwise expected or scheduled, to pass -
- (a) through each **interconnection point**; and
 - (b) between each **balancing zone** (if there is no **interconnection point** between the zones):
- 9.1.9 any relevant notices issued by the **transmission system owner** under a **transmission system code**:
- 9.1.10 any other information reasonably requested by the **balancing operator** for the purpose of carrying out its functions under these rules.

9.2 The information provided under rule 9.1 must be –

9.2.1 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 provided that the disclosure of such information is not in breach of any duty of confidentiality owed by the transmission system owner; and

9.2.2 provided as soon as is reasonably practicable, including in real-time if this is reasonably practicable, via an **information exchange** or other agreed means.

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

10.1 Subject to rule 8.2, each **transmission system owner** must provide the **balancing operator** with transmission services for the transmission of **balancing gas** on and subject to its current terms and conditions and subject to the availability of uncommitted capacity and prevailing and expected pipeline operating conditions.

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

11.1 Subject to rule 8.2, each **transmission system owner** must –

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priority access to pipeline capacity not already committed (for example, to approved nominations).¶

11.1.1 reasonably cooperate with the **balancing operator** in the performance of the **balancing operator's** functions under these rules;

11.1.2 use reasonable endeavours to give sufficient access, on reasonable terms and conditions, to the **balancing operator** to any **information exchange** used by the **transmission system owner** to enable the **balancing operator** to perform its functions; and [Note: Transmission system owners may not control access to these information exchanges.]

Deleted: with a view to minimising the quantity of **balancing gas** sold and purchased through **balancing actions**, and in particular by notifying and if relevant coordinating with the **balancing operator** in relation to any operational matters that may affect **linepack** in a part of **transmission system** owned by the **transmission system owner** (for example, the operation of compressors, maintenance, or safety matters)

11.1.3 ensure records of the relevant **users'** (or **transmission system owners'**) title to gas under relevant **transmission system arrangements** are, if necessary, adjusted to reflect allocations made by the **balancing operator** under rule 19 or 25 and notified to the **transmission system owner** under rule 20 or 25; and

11.1.4 **publish** as soon as practicable, –

- (a) its compressor operation policy, and any amendments to that policy; and
- (b) any written operational communications between the **transmission system owner** and the **balancing operator** that affect how the **balancing operator** carries out its functions under these rules; and

11.1.5 notify users as soon as is reasonably practicable via any **information exchange** used by the **transmission system owner** if it is notified by the **balancing operator** under rule 15.3 that there is insufficient gas available for sale or purchase within the price thresholds specified in the **balancing plan** to return the **linepack** in a **balancing zone** to, or close to, the relevant threshold (or to stop it falling below or exceeding the threshold, as applicable).

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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**.
- 12.4 A **transmission system owner** must notify to the **industry body** of any error or change in the boundaries of, and pipelines comprising, the **transmission system owner's** part of the **transmission system** as soon as practicable after becoming aware of the error or change.
- 12.5 The **industry body** shall if necessary amend or update the boundaries of, and pipelines comprising, the **transmission system** in response to any notice given by a **transmission system owner** under rule 12.4 and, where applicable, must **publish** an updated map depicting the **transmission system**.

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Part 2

Balancing

Balancing operator functions

13. Functions of the balancing operator

13.1 The functions of the **balancing operator** are to –

- 13.1.1 buy or sell **balancing gas** in relation to any **directly managed balancing zone** in accordance with rule 15; and
- 13.1.2 take any action provided for in the **balancing plan** in relation to any **indirectly managed balancing zone**; and
- 13.1.3 enter into transmission agreements in relation to the transmission of **balancing gas** to and from **reference locations**; and
- 13.1.4 allocate **balancing gas** and its associated **cash-out amount** in accordance with this Part in respect of each **balancing action** taken by the **balancing operator**; and
- 13.1.5 notify the relevant **transmission system owner** or owners of any adjustments required to be made under **transmission system arrangements** to the owner's records of **users'** (or the **transmission system owner's**) title to gas in the **transmission system** to reflect the allocation of **balancing gas** under this Part; and
- 13.1.6 carry out any other functions provided for in these rules.

14. Functions to be carried out independently

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

- 14.1.1 independently of any other functions carried out by that person; and
- 14.1.2 if the **balancing operator** is, or is related to, a **user** or **transmission system owner**, at arm's length from any other business of that **user** or **transmission system owner**.

14.2 The **balancing operator** must [use information provided to it under these rules only for the purpose of performing its functions under these rules and shall](#) keep confidential all information provided or disclosed to it under these rules except to the extent that disclosure –

14.2.1 is required to enable the **balancing operator** to carry out its functions under these rules; or

14.2.2 is otherwise authorised or required by law.

15. **Management of linepack [thresholds](#)**

15.1 If the **linepack** of a **balancing zone** that is defined in the **balancing plan** as **directly managed** falls below, or in the **balancing operator's** reasonable opinion is likely if **balancing action** is not taken to fall below, the lower threshold specified in the **balancing plan** for the zone, the **balancing operator** must–

15.1.1 use best endeavours to purchase the amount of gas that, in the **balancing operator's** [reasonable](#) opinion, is necessary to return the **linepack** to, or close to, the threshold, or prevent the **linepack** falling below the threshold; and

15.1.2 if necessary, ensure that the **balancing gas** purchased is **transmitted** to the relevant **balancing zone**.

15.2 If the **linepack** of a **balancing zone** that is defined in the **balancing plan** as **directly managed** exceeds, or in the **balancing operator's** reasonable opinion is likely if **balancing action** is not taken to exceed, the upper threshold specified in the **balancing plan** for the zone, the **balancing operator** must–

15.2.1 use best endeavours to sell the amount of gas that, in the **balancing operator's** opinion, is necessary to return the **linepack** to, or close to, the threshold, or prevent the **linepack** exceeding the threshold; and

15.2.2 if necessary, ensure that the **balancing gas** sold is **transmitted** from the relevant **balancing zone**.

15.3 If there is insufficient gas available for sale or purchase within the price thresholds specified in the **balancing plan** to return the **linepack** in a **balancing zone** to, or close to, the relevant threshold (or to stop it falling below or exceeding the threshold, as applicable), then the **balancing operator** must immediately notify –

- 15.3.1 the **transmission system owner** or owners who own the part or parts of the **transmission system** covered by the affected **balancing zone**; and
 - 15.3.2 the critical contingency operator appointed under the Gas Governance (Critical Contingency Management) Regulations 2008.
- 15.4 [All balancing gas transactions must be completed in accordance with the terms and conditions published pursuant to rule 18.1.](#)

Balancing market

16. Rules for transactions relating to balancing gas market

- 16.1 The **balancing operator** must establish or access the services of a market [or markets](#) 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 **transmitted** to or from the required **balancing zone** by the required time; and
 - 16.2.2 meets any technical requirements for 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 operator** under rule 18.
- 16.3 The **balancing operator** must purchase or sell **balancing gas** –
 - 16.3.1 only through the **balancing market**; and
 - 16.3.2 unless rule 17 applies, only on the terms and conditions in rule 16.4 or 16.5, as applicable.
- 16.4 Subject to rule 16.6, when purchasing **balancing gas** through the **balancing market** the **balancing operator** must –
 - 16.4.1 hold open, for as long as is reasonably practicable before the taking of **balancing action**, the period during which the **balancing**

- operator** will consider offers to sell gas, or changes to offers to sell gas; and
- 16.4.2** accept, or partially accept, the lowest priced offer or offers necessary to meet the **balancing operator's** obligation under rule 15.1.1, (where each offer price is first increased by any **transmission charges** that will be incurred by the **balancing operator** in transmitting that gas from its receipt point to the **reference location**); 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 **balancing action**, less any **transmission charges** incurred by the **balancing operator** in transmitting that gas from its receipt point to the **reference location**.
- 16.5** Subject to rule 16.6, when selling **balancing gas** through the **balancing market** the **balancing operator** must –
- 16.5.1** hold open, for as long as is reasonably practicable before the taking of **balancing action**, the period during which the **balancing operator** will consider offers to purchase gas, or changes to offers to purchase gas; and
- 16.5.2** accept, or partially accept, the highest priced offer or offers necessary to meet the **balancing operator's** obligation under section 15.2.1, (where each offer price is first decreased by any **transmission charges** that will be incurred by the **balancing operator** in transmitting that gas from the **reference location** to its delivery point); and
- 16.5.3** require the payment of the same **clearing price** from each person whose offer to purchase gas is fully or partially accepted as part of a **balancing action**, plus any **transmission charges** incurred by the **balancing operator** in transmitting that gas from the **reference location** to the delivery point.
- 16.6** The **balancing operator** 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 purchase price threshold specified in the **balancing plan**; or
- 16.6.2** in the case of sale of gas, lower than the sale price threshold specified in the **balancing plan**.

17. Circumstances in which transactions may be undertaken on other terms

- 17.1** The **balancing operator** may, for the purposes of rule 15, purchase or sell **balancing** gas other than in accordance with rule 16.4 or 16.5, as applicable, if the **industry body** has given notice to the **balancing operator** under this rule that in its opinion transactions on other terms and conditions would better meet the purpose of these rules.
- 17.2** In determining whether transactions on terms other than those in rule 16.4 or 16.5 would better meet the purpose of the rules, the **industry body** must have regard to –
- 17.2.1** the security of the delivery of gas;
 - 17.2.2** the liquidity of the **balancing market**; and
 - 17.2.3** any other relevant matters.
- 17.3** If the **industry body** gives notice to the **balancing operator** under rule 17.1 it must –
- 17.3.1** include reasons for the **industry body**'s opinion in the notice; and
 - 17.3.2** **publish** the notice; and
 - 17.3.3** in consultation with the **balancing operator**, determine the terms and conditions upon which the **balancing operator** will purchase and sell **balancing gas**, which terms must be consistent with rule 16.4 or 16.5, as applicable, except to the extent that other terms and conditions would, in the **industry body**'s opinion better meet the purpose of these rules.
- 17.4** The **balancing operator** must resume purchasing or selling **gas** in accordance with rule 16.4 or 16.5, as applicable, if the **industry body** notifies the **balancing operator** that in its opinion transactions in accordance with that rule would better meet the purpose of these rules.
- 17.5** The **industry body** must –
- 17.5.1** in determining whether to give a notice under rule 17.4 have regard to the matters in rule 17.2; and
 - 17.5.2** give reasons in any notice given under 17.4 as to why the **industry body** is of the opinion that transactions in accordance with rule 16.4 or 16.5, as applicable, would better meet the purpose of the rules; and

17.5.3 **publish** any notice given under 17.4.

17.6 To avoid doubt, rules [16.5](#) and 16.6 continue to apply to purchases or sales of balancing gas by the balancing operator, even if the balancing operator is not required to comply with rule 16.4 or 16.5, as applicable, by operation of this rule 17.

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18. Terms of balancing gas transactions

18.1 The **balancing operator** must **publish** the terms and conditions on which it will purchase or sell gas for the purposes of meeting its obligations under rule 15, which—

18.1.1 must be consistent with the intent of rule 16.2 to allow the **balancing market** to be as inclusive as possible; and

18.1.2 must reflect reasonable commercial practice.

18.2 Rule 18.1 applies both to the sale and purchase of gas in accordance with rule 16 and in accordance with any determination of the **industry body** under rule 17.3.3.

Allocation

19. Rules for allocation of balancing gas

19.1 The **balancing operator** must in respect of each **balancing action** taken by the **balancing operator**, allocate the **balancing gas** sold or purchased 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**; and

19.1.3 based on the best information available to the **balancing operator** at the time of the allocation.

19.2 To avoid doubt, if the **balancing operator** has received insufficient information to allocate all **balancing gas** sold or purchased in respect of a **balancing action** under the allocation model the **balancing operator** must –

19.2.1 allocate **balancing gas** to those **users** in respect of which the **balancing operator** has sufficient information to apply the allocation model; and

19.2.2 as soon as the **balancing operator** receives sufficient information, allocate the remaining **balancing gas** under the allocation model.

19.3 If the **balancing operator** is unable to allocate **all balancing gas** to **any users** under the allocation model the **balancing operator** must –

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19.3.1 allocate the unallocated **balancing gas** to the **transmission system owner** or owners who own the part or parts of the **transmission system** within the **balancing zone** in respect of which the **balancing gas** is unable to be allocated; and

19.3.2 treat a **transmission system owner** allocated **balancing gas** under rule 19.3.1 as a **user** who has been allocated the **balancing gas** under the allocation model in respect of an **imbalance** in the relevant **balancing zone**, and rules 19.4, and 20 to 25 apply accordingly.

[Note: How is rule 19.3 intended to work in connection with rule 19.2 as presumably the principal reason for the balancing operator being unable to allocate any balancing gas under 19.3 is the insufficiency of information in the possession of the balancing operator? At what point will the balancing operator determine it is “unable” to allocate any unallocated balancing gas?]

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19.4 Title to **balancing gas** allocated to a **user** by the **balancing operator** under this rule 19 is deemed to have passed to or from the **balancing operator** at the time of the **balancing action**.

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

20.1 As soon as practicable after allocating **balancing gas** to a **user** under rule 19, the **balancing operator** must –

20.1.1 notify any relevant **transmission system owner** of any adjustment needed to the **user’s** title to gas under **transmission system arrangements** to reflect the **balancing operator’s** allocation of **balancing gas**; and

20.1.2 determine the **cash-out price** for the **balancing gas** allocated to the **user** which –

- (a) for the purchase of **balancing gas**, is the sum of–
 - (i) the **clearing price** (per gigajoule) for the gas; and
 - (ii) any **transmission charges** (per gigajoule) incurred by the **balancing operator** in **transmitting** the **balancing gas** from the **reference location** to the location of the **user's imbalance**, and
- (b) for the sale of **balancing gas**, is–
 - (i) the **clearing price** for the gas (per gigajoule); less
 - (ii) any **transmission charges** (per gigajoule) incurred by the **balancing operator** in **transmitting** the **balancing gas** from the location of the **user's imbalance** to the **reference location**, and

20.1.3 notify the **user** of the amount of **balancing gas** from the **balancing action** allocated to the **user** (in gigajoules), and the associated **cash-out price** of that **balancing gas** (per gigajoule).

20.2 A **user** who has been notified of an allocation of **balancing gas** under rule 20.1.3 and who considers that the allocation of **balancing gas** or the determination of its associated **cash-out amount** was calculated in error, must advise the **balancing operator** of the alleged error as soon as reasonably practicable.

21. Payment for balancing gas purchased

21.1 As soon as possible after the end of each month, the **balancing operator** must issue an invoice to each **user** who has been allocated **balancing gas** under rule 19 (or rule 25) during the month (an **affected user**) –

21.1.1 for the total **cash-out amount** of **balancing gas** purchased that the **balancing operator** allocated to the **user** during the month; and

21.1.2 that contains a breakdown of the amount of the invoice showing the quantity ([in gigajoules](#)) and **cash-out amount** of the purchased **balancing gas** allocated to the **user** during the month by reference to the **balancing action** to which it relates.

21.2 An affected **user** must pay the total amount of any invoice issued under rule 21.1 to the **balancing operator**, –

21.2.1 if the invoice is received before the 5th of the month, no later than the 25th of the month in which the invoice was issued (or if the 25th of the month is not a **business day**, the following **business day**); or

21.2.2 if the invoice is received on or after the 5th of the month, no later than 15 business days after the invoice was received.

[Note: Amended to provide Vector with sufficient time to invoice and be paid such amounts by shippers on its system. This assumes that Vector is able to amend the payment provisions in the VTC to require shippers to pay all invoices in full, even those that shippers may dispute.]

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22. Payment of proceeds of sales of balancing gas

22.1 As soon as possible after the end of each month, the **balancing operator** must issue a credit note to each **user** who has been allocated **balancing gas** under rule 19 (or rule 25) during the month (an **affected user**) –

22.1.1 for the total **cash-out amount** of **balancing gas** sold that the **balancing operator** allocated to the **affected user** during the month; and

22.1.2 that contains a breakdown of the amount of the credit note showing the quantity (*in gigajoules*) and **cash-out amount** of the sold **balancing gas** allocated to the **user** during the month by reference to the **balancing action** to which it relates.

22.2 The **balancing operator** must, in relation to each **balancing action** recorded in a credit note issued under rule 22.1, pay the **affected user** the amount calculated in accordance with the following formula as soon as practicable after the beginning of the month following the month in which the credit note was issued (and if necessary the beginning of each month following that):

$$P = R \times (C/\Sigma C)$$

where

P is the total amount in dollars to be paid to the **user** in respect of the **balancing action** for the preceding month

R is the total amount of money in cleared funds received by the **balancing operator** in the preceding month from purchasers of the

balancing gas sold in the **balancing action** (the “**sold balancing gas**”)

- C is the **cash-out amount** of the **sold balancing gas** allocated to the **user** in respect of the **balancing action**
- ΣC is the total **cash-out amount** of the **sold balancing gas** allocated to **users** in respect of the **balancing action**.

22.3 Subject to rule 22.4, the **balancing operator** must make subsequent payments to affected **users** calculated in accordance with the formula in rule 22.2 so that, if full payment is received by the **balancing operator** for the **sold balancing gas**, the amount stated in the credit note is fully paid out to those **users**. [*\[Note: This provision will be complicated to administer.\]*](#)

22.4 The **balancing operator** -

22.4.1 is not required to pay out an amount greater than the total amount of payments received for **balancing gas** sold in a **balancing action**; but [*\[Note: As previously submitted, this “pay when paid” approach will adversely affect liquidity in the balancing gas market.\]*](#)

22.4.2 must use best endeavours to pursue each purchaser of **balancing gas** for any outstanding monies relating to **balancing gas** purchased by that person. [*\[Note: The inclusion of suitable prudential requirements applicable to all users would significantly simplify the debt recovery process.\]*](#)

22.5 The **balancing operator** –

22.5.1 may, despite anything in these rules, deduct from any amount payable to a **user** under these rules, the amount (or any part of the amount) of any monies owing under an invoice issued under 21.1 [to that same user](#) that is unpaid by the due date; but

22.5.2 must, if any amount is deducted in accordance with rule 22.5.1 notify the **affected user** by way of a monthly statement of the amount deducted.

22.6 Despite anything in these rules, if the **cash-out amount** for **sold balancing gas** allocated to a **user** is negative, the **balancing operator** must not include that **cash-out amount** in a credit note under this rule, but must instead include that amount in an invoice issued to the **user** under

rule 21 and rules 6.2.1 and 23 apply accordingly as if the sale of the associated **balancing gas** was a purchase.

23. Further provisions relating to payment

23.1 A **user** who fails to pay the amount of an invoice issued under rule 21.1 in full by its due date is liable to pay interest on the unpaid amount -

23.1.1 at the 90-day bill rate (as at the date payment was due in respect of the invoice);

23.1.2 for the period from the date by which the amount was due to be paid until the date of payment of the whole amount.

23.2 The obligation to pay an amount stated in an invoice is not suspended by any dispute that may affect the amount payable, however, if following resolution of the dispute the **balancing operator** is required to refund any excess payment, the **balancing operator** must pay interest -

23.2.1 on any amount refunded;

23.2.2 at the 90-day bill rate (as at the date the excess payment was made);

23.2.3 for the period from the date the excess payment was made until the date of the refund.

23.3 Neither rule 23.1 nor 23.2 authorises the giving of interest upon interest.

23.4 A **cash-out amount** is exclusive of any goods and services tax payable under the Goods and Services Tax Act 1985, and goods and service tax on the amount (if any) must be added to any invoice or credit note issued under rule 21 or 22.

24. Records of transactions

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

24.1.1 for each **balancing gas** transaction of -

- (a) the offer and final prices;
- (b) the quantity of gas purchased or sold;
- (c) the counterparty;

- (d) the **transmission charges** (if any); and
- (e) the **balancing action** with which the transaction is associated; and

24.1.2 for each **balancing action** of –

- (a) the date and time the **balancing action** was committed to;
- (b) the amount (if any) by which the **linepack** of the **balancing zone** to which the **balancing action** related diverged from the relevant threshold at the time of the **balancing action**;
- (c) the **clearing price**;
- (d) the total quantity of **balancing gas** purchased or sold; and
- (e) the **balancing zone** or zones to which the **balancing gas** purchased or sold is allocated, and for each **user** (or **transmission system owner**) to whom **balancing gas** is allocated in respect of that **balancing zone**—
 - (i) the quantity of **balancing gas** allocated to the person; and
 - (ii) the **cash-out price** of the **balancing gas** allocated to the person; and

24.1.3 of any other details of the transactions associated with **balancing actions** that the **balancing operator** considers desirable.

24.2 As soon as practicable after taking **balancing action**, the **balancing operator** must **publish** the following information in respect of the **balancing action**:

24.2.1 the date and time of the **balancing action**;

24.2.2 the **balancing zone** to which the **balancing action** related;

24.2.3 the total quantity of **balancing gas** sold or purchased; and

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

24.2.5 the quantity of **balancing gas** (if any) allocated to any **transmission system owner** under rule 19.3.1; and

24.2.6 the **transmission charges** for any **balancing gas** transmission services used by the **balancing operator**.

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

25. Amendments to allocations

25.1 This rule applies if the **balancing operator** considers that an allocation of **balancing gas** or its associated **cash-out amount** for a **balancing action** under these rules was incorrect or inaccurate –

25.1.1 due to an error by the **balancing operator**; or

25.1.2 based on new **imbalance** information provided to the **balancing operator** by a **transmission system owner** under rule 9.1.5(b).

25.2 If this rule applies in relation to **balancing gas**, the **balancing operator** must –

25.2.1 assess any difference between any previous allocation of **balancing gas** in relation to the **balancing action** (the **previous allocation**) and the allocation that, having regard to the allocation model and the best information available to the **balancing operator** at the time of the assessment, the **balancing operator** considers should have been made (the **correct allocation**); and

25.2.2 allocate to any **user** who is affected by the assessment the amount of **balancing gas** that is the difference between the previous allocation and the correct allocation (a **mop-up allocation**).

25.3 If the **balancing operator** makes a **mop-up allocation** under rule 25.2 and the **mop-up allocation** was not made because of a metering error on the a **transmission system**, the **balancing operator** must also –

25.3.1 assess [for each user affected by a mop-up allocation](#) any difference between the **cash-out amount** notified for the previous allocation (the **previous cash-out amount**) and the **cash-out amount** calculated in respect of the correct allocation (the **correct cash-out amount**); and

25.3.2 determine for [each user](#) who is affected by [a mop-up allocation](#) the amount that is the difference between the previous **cash-out amount** and the **correct cash-out amount** (a **mop up cash-out amount**).

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25.4 The **balancing operator** must also determine a **mop-up cash-out amount** in accordance with rule 25.3 if the **balancing operator** considers there was an error in the previous **cash-out amount**, but no **mop-up allocation** is necessary in relation to the **balancing gas** to which that **cash-out amount** relates.

25.5 The **balancing operator** must as soon as is reasonably practicable following the determination of such, give notice of any –

25.5.1 mop-up allocation to -

- (a) any affected **user**; and
- (b) the relevant **transmission system owner** or owners; and

25.5.2 mop-up cash-out amount to any affected user.

25.6 The balancing operator must include any **mop-up cash-out amount** in an invoice or credit note, as applicable, issued to the **user** under rule 21 or 22.

25.7 The **balancing operator** must make a decision in relation to a mop-up allocation or **mop-up cash-out amount** as soon as practicable after becoming aware of any error or new **imbalance** information.

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Reporting

26. Monthly reports

26.1 The **balancing operator** must, within 10 **business days** of the end of each month, provide a written report to the **industry body** and to each **transmission system owner** 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 operator** or any other person of which the **balancing operator** is aware at the date of the report and which have not previously been notified in a report.

26.2 The **industry body** must **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.

26.3 The information reported by the **balancing operator** under rule 26.1.2 and **published** under rule 26.2 must include the names of any **users** who have

failed to pay any amount owing to the **balancing operator** under an invoice issued under rule 21 by the due date, and the amount outstanding.

Part 3

Appointment of balancing operator, development of balancing plan, and funding

Subpart 1 General provisions

Balancing operator appointment

[Note: Vector remains of the view that it is more appropriate for the industry body to appoint the balancing operator and levy all users under the rules for the costs and liabilities associated with the balancing operator's appointment and operation. Transmission system owners may not be able to pass these costs on to users due to the imposition of price control. Rule 55.4 only authorises transmission system owners to pass on the fees paid by them under these rules, not all costs and liabilities relating to their direct appointment of the balancing operator. This is a disincentive for the appointment of the balancing operator by transmission system owners].

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27. Meaning of “appointer”

In this subpart,

appointer means a person required to appoint a **balancing operator** under subpart 2 or 3 of this Part

former appointer has the meaning in rule 31.1.1

new appointer has the meaning in rule 31.2.1

28. Appointment of balancing operator by appointer

28.1 An appointer may by agreement with any person appoint that person to act as the **balancing operator** under these rules.

- 28.2** In determining whether to appoint a person under rule 28.1, the **appointer** must have regard to –
- 28.2.1** the person’s capacity to carry out the functions of a **balancing operator** under these rules; and
 - 28.2.2** any other matter that in the **appointer’s** opinion is relevant to the appointment.
- 28.3** To avoid doubt, an appointer must appoint a single **balancing operator** to carry out the functions in Part 2 for the whole **transmission system**.

29. Terms of appointment of balancing operator

- 29.1** An **appointer** and any person proposed to be appointed as the **balancing operator** must –
- 29.1.1** agree the terms and conditions of the **balancing operator’s** appointment; and
 - 29.1.2** record those terms and conditions in a **balancing operator** service provider agreement.
- 29.2** The terms and conditions of the **balancing operator** service provider agreement may provide for—
- 29.2.1** the **appointer** to pay reasonable remuneration to the **balancing operator**; and
 - 29.2.2** [the **appointer** to indemnify the **balancing operator** for any costs incurred by the **balancing operator** that are unable to be recovered from –
 - (a) **users** under rule 6.2.1(a); or
 - (b) contracting parties in relation to the purchase and sale of **balancing gas**; and] *[Note: It is unrealistic to expect [transmission system owners to indemnify the balancing operator when they have no certainty of being able to recover these costs from users.](#)]*
 - 29.2.3** any other terms and conditions not inconsistent with these rules.

29.3 An **appointer** may at any time terminate, or change the appointment of, or reappoint, any person as the **balancing operator**, subject to the terms of the **balancing operator** service provider agreement.

29.4 The appointment of the **balancing operator** is also subject to termination under rule 31.1.

30. Publication of balancing operator service provider agreement¹

30.1 An **appointer** must **publish** [as soon as is reasonably practicable](#) –

30.1.1 any **balancing operator** service provider agreement entered into by the **appointer**; and

30.1.2 any amendment to any **balancing operator** service provider agreement.

31. Consequences of change of application of subpart

31.1 On the day subpart 2 or 3 ceases to apply under rule 36.1 or 36.2, or 43.3, as applicable –

31.1.1 the appointment of any person as **balancing operator** by an **appointer** under that subpart (the **former appointer**) is terminated and ceases to have effect; and

31.1.2 any **balancing plan** in force that was prepared by the **former appointer** under that subpart ceases to apply.

31.2 A **balancing operator** whose appointment is terminated under rule [29.3](#) or 31.1.1 must –

31.2.1 cooperate with the **balancing operator** appointed by the person required under the subpart that remains in application to appoint a **balancing operator** (the **new appointer**); and

31.2.2 provide copies of all records kept under rule 24 to the **balancing operator** appointed by the **new appointer**; and

31.2.3 provide copies of all other relevant documents held by the **balancing operator** to the **balancing operator** appointed by the **new appointer**.

31.3 A **new appointer** must pay the former **balancing operator** reasonable costs associated with the transfer of the **balancing operator** function,

including if agreed between the relevant parties, any transitional arrangements necessary in relation to **balancing gas** transactions and payment for **balancing gas** that have been entered into by the **balancing operator** before termination of the appointment.

- 31.4** Despite rule 31.1.1, and subject to any contractual arrangements entered into under rule 31.3, the **balancing operator** whose appointment is terminated by operation of that rule –
- 31.4.1** may exercise the powers of the **balancing operator** under Part 2 in relation to any **balancing actions** undertaken before the termination of the **balancing operator's** appointment; and
 - 31.4.2** remains liable in respect of any breaches of these rules, or obligations incurred by the **balancing operator**, on or before the date of termination (including, in relation to any **balancing gas** transactions undertaken, the obligation to pay the **cash-out price** of any **sold balancing gas** allocated to affected **users** in accordance with rule 22); and
 - 31.4.3** remains entitled to be paid the **cash-out amount** of any purchased **balancing gas** allocated to **users** on or before the termination date [and must continue to use best endeavours to pursue each purchaser of balancing gas for any outstanding monies relating to balancing gas purchased by that person.](#)
- 31.5** To avoid doubt if a **balancing operator** is appointed by the **new appointer** at a time when a **balancing operator** appointed by the **former appointer** is carrying out functions under these rules, the **balancing operator** appointed by the **new appointer** is not required to and may not carry out functions under Part 2 until the date the former **balancing operator's** appointment is terminated under rule 31.1.1.

Balancing plan approval

32. Criteria for approval of balancing plan

- 32.1** The **industry body** must approve a draft balancing plan or an amendment to a **balancing plan** under this rule if -
- 32.1.1** the plan, or if relevant, the plan following the proposed amendment, complies with rules 32.2 and 32.3; and

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32.1.2 the **industry body** is satisfied that –

- (a) the **balancing plan** will assist in meeting the purpose of these rules (and the balancing plan does not contain any provisions that are not reasonably required to meet the purpose of these rules); or
- (b) if the approval relates to amendment to a **balancing plan**, the amendment will assist the plan to better meet the purpose of these rules, or is necessary to reflect changes, for example, in the operational environment of the **balancing operator**, that affect the operation of plan.

32.2 A **balancing plan** must –

32.2.1 contain and comply with the requirements in the Schedule to these rules; and

32.2.2 be consistent with –

- (a) the Gas Governance (Critical Contingency Management) Regulations 2008; and
- (b) the Gas (Downstream Reconciliation) Rules 2008; and
- (c) the terms and operating procedures of any information exchange (and the balancing plan shall not be capable of taking effect until such time as any changes to the terms and operating procedures of any information exchange necessary to address any inconsistencies with the rules have been approved); and
- (d) all transmission system arrangements (and the balancing plan shall not be capable of taking effect until such time as any amendments to any transmission system arrangements necessary to address any inconsistencies with the rules have been approved) except to the extent that the inconsistency is necessary or desirable to meet the purpose of these rules provided that rule 67 shall not apply when the industry body makes such determination.

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32.3 A **balancing plan** may –

32.3.1 contain transitional provisions; or

32.3.2 provide for different parts of the **balancing plan** to apply at different times.

33. Publication of balancing plan

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

33.1.1 notify each **transmission system owner** that the **balancing plan** or amended **balancing plan** has been approved; and

33.1.2 **publish** the approved **balancing plan** or approved amended **balancing plan**; and

33.1.3 if an amendment to a **balancing plan** (other than a minor or technical amendment) has been approved by the **industry body** before consultation under subpart 2 or 3 of this Part on the grounds that the amendment is urgent, -

(a) notify each **transmission system owner** of the date that the amendment will expire under rule 35 unless reapproved by the **industry body** before that date; and

(b) **publish** with the approved amended **balancing plan**, a notice specifying the date that the amendment will expire under rule 35 unless reapproved by the **industry body** before that date.

33.2 No later than 5 **business days** after the **transmission system owners** receive a notice from the **industry body** under rule 33.1.1, each **transmission system owner** must–

33.2.1 ensure the **balancing plan** or amended **balancing plan** is **published** on any **information exchange** used by the **transmission system owner**; and

33.2.2 notify **users** via any **information exchange** used by the **transmission system owner** –

(a) of the publication of the **balancing plan** or amended **balancing plan**; and

(b) if relevant, of the date of expiry of the amendment notified under rule 33.1.3.

- 33.3** If the **balancing plan** approved under rule 32 is the first **balancing plan** approved by the **industry body** under these rules, the **industry body** must also—
- 33.3.1** together with the material published under rule 33.1.2, **publish** a statement specifying the **go-live date**; and
- 33.3.2** notify in the *Gazette*—
- (a) that it has approved a **balancing plan**; and
- (b) the **go-live date**.
- 33.4** The **go-live date** notified by the **industry body** under rule 33.3.2 must —
- 33.4.1** be the first day of a month; and
- 33.4.2** not be later than the date that is 6 months after the date on which the **industry body** approved the **balancing plan**.
- 34. Date balancing plan or amended balancing plan comes into force**
- 34.1** A **balancing plan** or an amendment to a **balancing plan** that is approved by the **industry body** under rule 32 comes into force—
- 34.1.1** if it is the first **balancing plan** approved by the **industry body**, on the **go-live date**; or
- 34.1.2** if it is not the first **balancing plan** approved by the **industry body**, or if it is an amendment to a **balancing plan**, and it is approved on —
- (a) a date that is before the 25th of a month, on the 1st day of the month following the month in which the plan or amended plan is **published** in accordance with rule 33.1.2 or such later date as the **industry body** may specify in the approval; or
- (b) 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 or amended plan is **published** in accordance with rule 33.1.2 or such later date as the **industry body** may specify in the approval.
- 34.2** Despite rule 34.1.2 an amendment to a **balancing plan** that is specified by the **industry body** in the notice given under rule 33.1.3 to be urgent comes

into force on the first **business day** after it is notified to the **transmission system owners** under rule 33.1.

35. Expiry of urgent amendments

- 35.1 An amendment to the **balancing plan** that is, in the **industry body's** opinion urgent, but not minor and technical, [that has been approved by the industry body under rule 41.1.1](#), expires after 60 **business days** unless by that date the amendment has been –
- 35.1.1 consulted upon by the **appointer**; and
 - 35.1.2 reapproved by the **industry body**.
- 35.2 If an urgent, [but not minor and technical](#) amendment expires, the **industry body** must –
- 35.2.1 notify each **transmission system owner** that the amendment has expired; and
 - 35.2.2 **publish** the **balancing plan** as it was before the urgent, [but not minor and technical](#) amendment.
- 35.3 Each **transmission system owner** must as soon as practicable following receipt of notification under rule 35.2.1–
- 35.3.1 ensure the **balancing plan** as it was before the urgent, [but not minor and technical](#) amendment is **published** on any **information exchange** used by the **transmission system owner**; and
 - 35.3.2 notify **users** via any **information exchange** used by the **transmission system owner** that the amendment has expired, and of the publication of the **balancing plan** under rule 35.3.1.
- 35.4 This subpart applies to reapproval of an urgent, [but not minor and technical](#) amendment to a **balancing plan** as if it were approval of an amendment to that plan.

Subpart 2

Appointment of balancing operator by joint transmission system owners

36. Application of subpart

- 36.1 This subpart applies in the period –
- 36.1.1 from on and after the **commencement date**;

36.1.2 until -

- (a) if it is before the **go-live date**, the date of any notice given under rule 44.2.1 or 44.3; or
- (b) if it is after the **go-live date**, the date that a **balancing plan** prepared by the **industry body** under subpart 3 comes into force.

36.2 This subpart also applies in the period—

36.2.1 from on and after the **reapplication date**;

36.2.2 until the earlier of the date –

- (a) of any notice in the *Gazette* under rule 49.4; or
- (b) that a **balancing plan** prepared by the **industry body** under subpart 3 comes into force.

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

37. **Joint obligations of transmission system owners in relation to appointment of balancing operator and preparation of balancing plan** [Note: As previously submitted, Vector considers that any obligations on transmission system owners to appoint the balancing operators and agree a balancing plan, should be split so agreeing a balancing plan is not conditional on appointing a balancing operator.]

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

37.1.1 attempt to agree on –

- (a) a person to act as the **balancing operator** under these rules and the terms of a draft service provider agreement; and
- (b) the contents of a draft **balancing plan**; and

37.1.2 if they agree on a **balancing operator** and on a draft balancing plan, consult upon and seek approval of that plan from the **industry body** in accordance with the procedure in rule 38; and

37.1.3 if the **balancing plan** referred to in rule 37.1.2 is approved by the **industry body** under rule 32, as soon as practicable following notification of such approval, appoint the person named in the

balancing plan to act as the **balancing operator** for the purposes of these rules; and

37.1.4 if they cannot agree on a person to act as the **balancing operator**, on the terms of a draft **balancing operator** service provider agreement, or on a draft balancing plan within 60 **business days** from the **commencement date**, notify the **industry body** accordingly, together with information about the status of their negotiations.

37.2 Nothing in rule 37.1.4 prevents a **transmission system owner** notifying the **industry body** before the expiry of 60 **business days** from the **commencement date** that, in the **transmission system owner's** reasonable opinion, the **transmission system owners** are deadlocked and will be unable to reach agreement on the matters in rule 37.1.1 within the 60 **business day** period.

[Note: The obligation to use best endeavours here means, in effect, that transmission system owners have more rigorous obligations to ensure that a balancing operator, once appointed, remains in place, than they do to appoint them in the first place. Suggest this provision is deleted as it is arguably superfluous as rule 43.1.4 will be triggered on termination of a service provider agreement.]

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Balancing plan approval process

38. Procedure for preparation and consultation on draft balancing plan

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

38.1.1 provide the following documents to the **industry body** -

- (a) a copy of the draft balancing plan; and
- (b) one or more documents setting out the changes (if any) to any **transmission system arrangements** that relates to access to and use of a part of the **transmission system** owned by each **transmission system owner** that would be necessary to ensure consistency with the draft **balancing plan** and these rules were it approved by the **industry body**; and

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38.1.2 **publish** the draft balancing plan [and the documents referred to in rule 38.1.1\(b\)](#); and

38.1.3 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 if it is approved by the **industry body**, [including the industry body](#); and

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38.1.4 give persons consulted with under rule 38.1.3 ~~20~~ **business days** to make submissions to the **transmission system owners** on the draft balancing plan; and

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38.1.5 **publish** any submissions as soon as practicable after those submissions are received; and

38.1.6 provide copies of the submissions to the **industry body**.

38.2 The **industry body** must **publish** -

38.2.1 the draft balancing plan provided to it under rule 38.1.1 [and the documents referred to in rule 38.1.1\(b\)](#); and

38.2.2 any submissions provided to it under rule 38.1.6.

[\[Note: This duplicates the publication obligations in rule 38.1.1.\]](#)

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38.3 After the consultation required by rule 38.1, the **transmission system owners** must either -

38.3.1 submit the draft **balancing plan** unamended to the **industry body**;
or

38.3.2 amend the draft balancing plan and -

- (a) if the amendment does not materially affect the contents of the draft balancing plan, submit the draft **balancing plan** to the **industry body** for approval; or
- (b) if the amendment materially affects the contents of the draft balancing plan, -
 - (i) produce a new draft balancing plan, and

- (ii) one or more new documents setting out the changes to any **transmission system arrangements** that relates to access to and use of a part of the **transmission system** owned by each **transmission system owner** that would be necessary to ensure consistency with the draft balancing plan and these rules were it approved by the industry body; and
- (iii) follow again the procedure in this rule 38 (however, in this circumstance, the number of days for the making of submissions under rule 38.1.4 is 10 **business days**).

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38.4 To avoid doubt, rule 38.1.1(b) does not affect the process or requirements in any **transmission system arrangements** in relation to changes to those arrangements.

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39. **Decision by industry body on draft balancing plan**

39.1 The **industry body** must consider a draft **balancing plan** submitted under rule 38.3.1, 38.3.2(a), or 39.2.3, and decide within 20 **business days**, whether to approve the draft balancing plan under rule 32 or decline it.

39.2 If the **industry body** declines to approve the draft **balancing plan** –

39.2.1 it must give reasons; and

39.2.2 it may propose any amendments to the draft balancing plan that in its view would ensure the plan met the requirements for approval; and

39.2.3 the **transmission system owners** must consider the reasons and any amendments proposed by the **industry body** and may amend the draft **balancing plan** accordingly, and –

- (a) if the amendment does not materially affect the contents of the plan, may resubmit the draft **balancing plan** to the **industry body** for approval; or
- (b) if the amendment materially affects the contents of the plan, must produce a new draft balancing plan and again follow the procedure in rule 38 (however, in this circumstance, the minimum number of days for the making of submissions is 10 **business days**).

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Balancing plan amendments

40. Procedure for amendment to approved balancing plan

40.1 A **balancing plan** that has been prepared under this subpart and approved by the **industry body** may be amended at any time in accordance with the procedure in this rule 40.

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

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

40.2.2 the **industry body**.

40.3 One or more **transmission system owners** or other **users** may request the **industry body** to propose an amendment under rule 40.2.2, and for that purpose may submit a suggested amendment to the **industry body**, which may, if the proposed amendment in its opinion complies with rule 32, in its discretion decide whether or not to adopt the suggested amendment and propose it under rule 40.2.

40.4 If the **transmission system owners** wish to propose an amendment [pursuant to rule 40.2.1](#) they must submit the proposed amendment to the **industry body**, together with –

40.4.1 an explanation for the proposed amendment; and

40.4.2 a statement as to whether in the **transmission system owners'** opinion the amendment is minor and technical, or needs to be made urgently; and

40.4.3 if in the **transmission system owners'** opinion the amendment is minor and technical, or needs to be made urgently, the reasons for that view; and

40.4.4 one or more documents setting out the changes to any **transmission system [arrangements](#)** that relates to access to and use of a part of the **transmission system** owned by the **transmission system owner** that would be necessary to ensure consistency with the proposed amendment were it approved by the **industry body**.

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40.5 If the **industry body** wishes to propose an amendment, the **industry body** must notify the proposed amendment to the **transmission system owners**, together with an explanation for the proposed amendment.

41. **Procedure for minor and technical or urgent amendments to the balancing plan**

41.1 If an amendment proposed by the **industry body** or the **transmission system owners** is in the **industry body's** opinion minor and technical or needs to be made urgently, the **industry body** –

41.1.1 may approve the amendment under rule 32; but

41.1.2 must also, if the amendment is in its opinion, urgent but not minor and technical, advise the **transmission system owners** that they are required to consult on the amendment under rule 42.

42. **Procedure for urgent, non- minor and technical amendments to balancing plan**

42.1 If, in the **industry body's** opinion, an amendment proposed by the **industry body** or the **transmission system owners** is urgent but not minor and technical, the **transmission system owners** must, as soon as practicable following notification by the **industry body** of its opinion on that point, follow the procedure in rule 38, which applies with any necessary modifications to the proposed **balancing plan** amendment, as if it were a draft **balancing plan**.

42.2 Rule 39 applies with any necessary modifications to any proposed amendment to the **balancing plan** submitted to the **industry body** by the **transmission system owners** in accordance with rule 38.3.1, 38.3.2(a), or 39.2.3 and rule 42.1.

42.3 If an urgent but not minor or technical amendment has been approved by the **industry body** before consultation in accordance with rule 38 (as applied by rule 41.1.1), then the **industry body** may, on submission of the amendment to the **industry body** under rule 39, reapprove the amendment together with any amendments made to it under rule 38.3.2 if satisfied that it meets the criteria in rule 32 and it has not expired prior. [Note: What is the procedure for amendments proposed by transmission system operators that are not urgent and not minor and technical?]

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Subpart 3
Appointment of balancing operator by industry body

43. Application of this subpart

43.1 This subpart applies if –

43.1.1 the **transmission system owners** have failed to submit a draft **balancing plan** to the **industry body** under rule 38.1.1 within 60 **business days** of the **commencement date**, or

43.1.2 the **transmission system owners** have failed to submit a draft **balancing plan** to the **industry body** for approval under rule 38.3 within 40 **business days** of the relevant date of submission (or re-submission) of the draft **balancing plan** under rule 38.1.1; or

43.1.3 whether it is before or after the dates referred to in rules 43.1.1 or 43.1.2, in the **industry body's** reasonable opinion the procedure in rules 37 and 38 –

(a) is deadlocked; or

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

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

43.1.5 in the **industry body's** opinion the **balancing operator** appointed by the **transmission system owners** under subpart 2 is failing to carry out its functions in accordance with these rules.

43.2 Before coming to an opinion under rule 43.1.5, the **industry body** must –

43.2.1 consider –

(a) the results of any audit conducted under rule 56; and

(b) any relevant rulings of the Rulings Panel in relation to any breach of these rules by the **balancing operator**; and

(c) any relevant settlements approved by the Rulings Panel in relation to any alleged breach of these rules by the **balancing operator**; and

- (d) any other relevant evidence that the **balancing operator** is failing to carry out its functions in accordance with these rules; and
- 43.2.2** give the **balancing operator** a reasonable opportunity to respond to such an audit, ruling or evidence.
- 43.3** This subpart ceases to apply on the earlier of –
 - 43.3.1** the day that is 25 **business days** after the date of a notice under rule 44.2.2 (unless a further notice is given under rule 44.3 before that day); or
 - 43.3.2** the day that a **balancing plan** prepared by the **transmission system owners** under subpart 2 of this Part comes into force under rule 34.1.
- 43.4** To avoid doubt, -
 - 43.4.1** having ceased to apply under rule 43.3, this subpart may reapply in the circumstances in rule 43.1.4 or 43.1.5; and
 - 43.4.2** no person is required to comply with this subpart unless it applies.
- 44. Industry body's obligations if subpart applies**
 - 44.1** If this subpart applies, the **industry body** must –
 - 44.1.1** give the **transmission system owners** written notice that, if it is not satisfied by the date specified in the notice that there is or will shortly be a balancing operator appointed by the **transmission system owners** under subpart 2 carrying out its functions in accordance with these rules the **industry body** will -
 - (a) prepare and approve a **balancing plan** under rule 45; and
 - (b) appoint a **balancing operator** under this subpart; and
 - 44.1.2** **publish** the notice given under rule 44.1.1; and
 - 44.1.3** give the **transmission system owners** and any other interested persons 15 **business days** to make submissions to the **industry body** in response to the notice given under rule 44.1.1.
 - 44.2** If the industry body is –

44.2.1 not satisfied, having regard to any submissions received from any person, on the date specified in the notice given under rule 44.1.1 that there is or will shortly be a **balancing operator** appointed by the **transmission system owners** in place who is carrying out functions in accordance with these rules give notice to the **transmission system owners** that it will prepare and approve a **balancing plan under rule 45** and appoint a **balancing operator** under this subpart; or

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44.2.2 satisfied, having regard to any submissions received from any person, on the date specified in the notice given under rule 44.1.1 that there is or will shortly be a **balancing operator** appointed by the **transmission system owners** in place who is carrying out functions in accordance with these rules give notice to the **transmission system owners** accordingly.

44.3 Despite rule 44.2.2, if within 20 **business days** after the date specified in the notice given under rule 44.1.1 the industry body is not satisfied that there is a **balancing operator** appointed by the **transmission system owners** in place who is carrying out functions in accordance with these rules, the industry body may, without any further consultation, notify the **transmission system owners** that it will prepare and approve a **balancing plan under rule 45** and appoint a **balancing operator** under this subpart

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44.4 The date specified in the notice under rule 44.1.1 must not be earlier than 30 **business days** from the date of the notice.

44.5 The **industry body** must **publish** every notice given under rule 44.2 or 44.3.

Balancing plan approval process, and appointment of balancing operator

45. Procedure for preparation and consultation on balancing plan and appointment of balancing operator

45.1 If the **industry body** has given a notice to the **transmission system owners** under rule 44.2.1, the **industry body** must –

45.1.1 prepare, in consultation with transmission system owners, and **publish** a draft **balancing plan** that in its opinion would meet the criteria for approval of a **balancing plan** under rule 32.1; and

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- 45.1.2 prepare, in consultation with **transmission system owners**, one or more documents setting out the changes (if any) to any **transmission system arrangements** that relates to access to and use of a part of the transmission system owned by each **transmission system owner** that would be necessary to ensure consistency with the draft **balancing plan** and these rules were it approved by the **industry body**; and
- 45.1.3 consult on the draft **balancing plan** (including on the identity of the proposed balancing operator named in 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
- 45.1.4 give persons consulted with under rule 45.1.2 20 business days to make submissions to the **industry body** on the draft **balancing plan**; and
- 45.1.5 **publish** any submissions received under rule 45.1.3; and
- 45.1.6 consider the submissions made and make any amendment to the draft balancing plan that the **industry body** considers necessary.
- 45.2 After following the procedure in rule 45.1, the **industry body** -
- 45.2.1 may approve the draft balancing plan under rule 32; and *[Note: The timing of this needs to be specified.]*
- 45.2.2 must, as soon as practicable following approval of a **balancing plan** in accordance with rule 45.2.1, appoint the person named in the **balancing plan** to act as the **balancing operator** for the purposes of these rules.
- 45.3 Despite anything in these rules, the **industry body** may, in the circumstances in rule 45.4 –
- 45.3.1 adopt the draft balancing plan consulted upon by the **transmission system owners** and make any amendments permitted by that rule; and
- 45.3.2 approve the **balancing plan** (including any amendments made under rule 45.3.1) under rule 32 without following the procedure in rule 45.1.

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45.4 The circumstances for the purposes of rule 45.3 are –

45.4.1 if –

- (a) a draft **balancing plan** has been consulted upon by the **transmission system owners** under rule 38, but
- (b) the **transmission system owners** have failed to submit a draft balancing plan to the **industry body** under rule 38.3; and
- (c) the amendments proposed to the draft **balancing plan** consulted upon are in the opinion of the industry body, necessary to it to ensure that the plan meets the criteria for approval of a **balancing plan** under rule 32; or

45.4.2 if –

- (a) a **balancing plan** prepared by the **transmission system owners** under subpart 2 is in force; and
- (b) this subpart applies because of rule 43.1.4 or 43.1.5; and
- (c) the only significant amendment the **industry body** proposes to make to the **balancing plan** is in relation to the person who will act as the **balancing operator**.

[Note: See deletion of equivalent transmission system owner provision.]

Balancing plan amendments

46. Procedure for amendment to approved balancing plan

46.1 A **balancing plan** that has been prepared by the **industry body** under rule 45 may be amended at any time in accordance with the procedure in this rule 46.

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

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

46.2.2 the **industry body**.

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- 46.3 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, if the proposed amendment in its opinion complies with rule 32, in its discretion decide whether or not to adopt the suggested amendment and propose it under rule 46.2.2.
- 46.4 If the **transmission system owners** wish to propose an amendment [pursuant to rule 46.2.1](#) they must submit the proposed amendment to the **industry body**, together with –
- 46.4.1 an explanation for the proposed amendment; and
 - 46.4.2 a statement as to whether in the **transmission system owners’** opinion the amendment is minor and technical, or needs to be made urgently; and
 - 46.4.3 if in the **transmission system owners’** opinion the amendment is minor and technical, or needs to be made urgently, the reasons for that view; and
 - 46.4.4 a document setting out the changes to any **transmission system arrangements**, that relates to access to and use of a part of the **transmission system** owned by the **transmission system owner** that would be necessary to ensure consistency with the proposed amendment were it approved by the industry body.
- 46.5 If the **industry body** wishes to propose an amendment, the **industry body** must notify the proposed amendment to the **transmission system owners**, together with an explanation for the proposed amendment.
47. **Procedure for minor and technical or urgent amendments to the balancing plan**
- 47.1 If an amendment proposed by the **industry body** or the **transmission system owners** is in the **industry body’s** opinion minor and technical or needs to be made urgently, the **industry body** –
- 47.1.1 may approve the amendment under rule 32; but
 - 47.1.2 must also, if the amendment is in its opinion, urgent but not minor and technical, undertake consultation in accordance with rule 48

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48. Procedure for urgent, non-minor and technical amendments to balancing plan

48.1 If an amendment proposed by the **industry body** or the **transmission system owners** is in the **industry body**'s opinion urgent but not minor and technical, the **industry body** must follow the procedure in rule 45.1, which applies with any necessary modifications to a draft **balancing plan** amendment, as if it were a draft **balancing plan**.

48.2 After following the procedure in rule 45.1 (as applied by rule 48.1) the **industry body** may approve the **balancing plan** amendment.

48.3 If an urgent but not minor and technical amendment has been approved by the **industry body** before consultation in accordance with rule 45.1 (as applied by rule 45.2.1), then the **industry body** may, following consultation on the amendment, reapprove the amendment and any amendments to it made under rule 45.1.4 if satisfied that it meets the criteria in rule 32 and it has not expired prior. *[Note: What is the procedure for amendments proposed by transmission system operators that are not urgent and not minor and technical?]*

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49. Reversion to transmission system operator appointment

49.1 This rule applies if at any time that subpart 2 of this Part does not apply the **transmission system owners** agree that the preparation of a balancing plan and appointment by the **transmission system owners** of a **balancing operator** under subpart 2 would better meet the purpose of these rules.

49.2 If this rule applies the **transmission system owners** may submit to the **industry body** that in their view subpart 2 should apply, and the industry body must -

49.2.1 consult 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 should subpart 2 apply; and

49.2.2 give persons consulted with under rule 49.2.1 20 business days to make submissions to the **industry body** on the matter; and

49.2.3 **publish** the submissions as soon as practicable after those submissions have been received; and

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49.2.4 consider the submissions made and if, in the **industry body's opinion** appointment by the **transmission system owners** of a **balancing operator** under subpart 2 might better meet the purpose of these rules, the **industry body** may recommend to the Minister that the Minister give a notice in the *Gazette* under rule 49.3.

49.3 The Minister may, on the recommendation of the industry body, give a notice in the *Gazette* specifying that subpart 2 of this Part reappplies from the date specified in the notice (the **reapplication date**), and subject to rule 49.4, from that date –

49.3.1 subpart 2 of this Part applies; and

49.3.2 each reference to the **commencement date** in rule 37 must be read as a reference to the **reapplication date**.

49.4 If, by the date 60 **business days** after the **reapplication date**, there is not a **balancing operator appointed** by the **transmission system owners** in place carrying out the functions in Part 2, -

49.4.1 the Minister may, in the Minister's discretion by a further *Gazette* notice, revoke the notice given in the *Gazette* under rule 49.3, and

49.4.2 from the date of the notice given under rule 49.4.1, subpart 2 of this Part ceases to apply.

Subpart 4 Funding

[Note: Vector remains of the view that it is more appropriate and efficient for the industry body to levy users directly for all of the costs and liabilities associated with the balancing operator's appointment and ongoing operation, irrespective of who appoints the balancing operator. Transmission system owners may not be able to pass these costs on to users due to the imposition of price control regulation (whether they are incurred directly by transmission system owners or indirectly through the payment of the fees in this subpart). The funding provisions in this subpart could very easily be amended to levy users for the costs and liabilities incurred in relation to the appointment of the balancing operator (irrespective of who appoints the balancing operator).]

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50. Development fee

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

50.2 The balancing regime development costs are—

50.2.1 if subpart 2 of this Part applies, -

- (a) the costs of the **industry body** associated with reviewing and approving a **balancing plan** submitted to it under subpart 2; and
- (b) the costs of the **industry body** in connection with the development and establishment of the balancing arrangements under subpart 2; and
- (d) the costs payable by the **transmission system owners** to any **balancing operator** appointed under subpart 2 whose appointment is terminated under rule 31.1.1; and

50.2.2 if subpart 3 of this Part applies-

- (a) the costs of the **industry body** associated with the appointment of the **balancing operator** under subpart 3, including the costs of preparing and agreeing a balancing operator service provider agreement; and
- (b) the costs (if any) payable by the **industry body** to the **balancing operator** to be appointed under subpart 3 before the date on which the **balancing operator** commences carrying out functions under these rules, for example, for development and establishment of any arrangements necessary under these rules in relation to information technology systems; and
- (c) the costs of the **industry body** in connection with the preparation and consultation on a **balancing plan** under subpart 3; and
- (d) the costs payable by the **industry body** to any **balancing operator** appointed under subpart 2 of this Part whose appointment is terminated under rule 31.1.1.

50.3 A person is –

50.3.1 liable to pay a development fee in relation to the costs in rule 50.2.1 if that person is a user at –

- (a) the **commencement date**; or

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(b) the **reapplication date**, unless a notice is given under rule 49.5 revoking the application of subpart 2; or

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50.3.2 liable to pay a development fee in relation to the costs in rule 50.2.2 if the person is a **user** at the date a **balancing plan** prepared by the **industry body** under subpart 3 comes into force.

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50.4 To avoid doubt, -

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

50.4.2 if a development fee is payable for the costs in rules 50.2.1 and 50.2.2, the same costs may not be included in both development fees;

50.4.3 a **user** may be liable to pay -

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(a) a development fee under both rules 50.3.1 and 50.3.2; and

(b) more than one development fee under either rule 50.3.1 or 50.3.2, if subpart 2 or 3 of Part 3 having ceased to apply, reapplies in accordance with these rules.

51. How and when development fee must be paid

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

51.2 Every person to whom -

51.2.1 rule 50.3.1 applies must supply to the **industry body** a return as at a date that is as soon as practicable after the **commencement date** or **reapplication date**, as applicable, and no later than 38 days after that date; and

51.2.2 rule 50.3.2 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** prepared by the **industry body** under subpart 3 comes into force and no later than 38 days after that date (in each case, **the deadline for supplying returns**).

51.3 [A return under rule 51.2 must state—

51.3.1 the total gigajoules of gas that were injected or received into any part of the **transmission system** owned by the **transmission system owner** other than from a part of the **transmission system**

not owned by the **transmission system owner**, during the 12 months prior to the month in which **the deadline for supplying returns** occurred; and

51.3.2 the total gigajoules of gas that were taken out of any part of the **transmission system** owned by the **transmission system owner**, other than into a part of the **transmission system** not owned by the **transmission system owner**, during the 12 months prior to the month in which **the deadline for supplying returns** occurred.]
[Note: This rule needs to be reformulated, consistent with charging users directly.]

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

51.5 As soon as practicable after a deadline for supplying returns, the **industry body** must invoice every user to whom the relevant paragraph of rule 50.3 applies for that user'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 **transmission system owner's** part of the **transmission system** other than from a part of the **transmission system** not owned by the **transmission system owner** during the 12 month period covered by the return; and

(b) the total quantity of gas taken out of the **transmission system owner's** part of the **transmission system**, other than into a part of the **transmission system** not owned by the **transmission system owner**, during the 12 month period covered by the return; and

C is the sum of—

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- (a) the total quantity of gas injected or received into all parts of the **transmission system** other than from a 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 parts of the **transmission system**, other than into a 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 their costs directly to users, not transmission system owners.]*

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

51.6.1 the **go-live date**:

51.6.2 if subpart 2 applies by operation of a notice under rule 49, the date that a **balancing plan** prepared by the **transmission system owners** under that subpart comes into force:

51.6.3 if subpart 3 applies and the **balancing plan** prepared under subpart 3 is not the first **balancing plan** approved by the **industry body**, the date the **balancing plan** comes into force.

51.7 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 50.3.1 or 50.3.2, as applicable, applies for the difference between—

51.7.1 that person's share of the actual balancing regime development costs calculated in accordance with the formula in rule 51.5, with the necessary modifications; and

51.7.2 the amount of the estimated balancing regime development costs invoiced to that person under rule 51.5.

52. Ongoing fees

52.1 The ongoing fees are monthly fees to meet the balancing regime ongoing costs.

52.2 The balancing regime ongoing costs are—

52.2.1 for any period in a year in which a **balancing operator** appointed by the **transmission system owners** is carrying out the functions in Part 2 -

- (a) the costs of the **industry body** associated with its obligations under these rules, including in relation to any **balancing plan** amendments; and
- (b) the costs payable to any auditor appointed by the **industry body** under rule 56; and

52.2.2 for any period in a year in which a **balancing operator** appointed by the **industry body** is carrying out the functions in Part 2 -

- (a) the costs payable by the **industry body** to the **balancing operator** in respect of that period under the balancing operator service provider agreement; and
- (b) the costs payable to any auditor appointed by the **industry body** under rule 56; and
- (c) any other costs of the **industry body** associated with its obligations under these rules, including in relation to any **balancing plan** amendments.

52.3 Each person who is a **user** in a month is liable to pay ongoing fees for that month in accordance with these rules.

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52.4 In this rule and rules 53 to 55, **year** means the financial year of the **industry body** unless the context otherwise requires.

53. How and when estimated ongoing fees payable

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

53.2 Rule 53.3 applies to each month after (and including the month of) the **go-live date**.

53.3 Every person to whom rule 52.3 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**.

53.4 [The return must state—

53.4.1 the total gigajoules of gas that were injected or received into any part of the **transmission system** owned by the **transmission system owner**, other than from a part of the **transmission system** not owned by the **transmission system owner**, during the preceding month; and

53.4.2 the total gigajoules of gas that were taken out of any part of the **transmission system** owned by the **transmission system owner**, other than into a part of the **transmission system** not owned by the **transmission system owner**, during the preceding month.]
[Note: This rule needs to be reformulated, consistent with charging users directly.]

53.5 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**.

53.6 As soon as practicable after the publication of those estimated balancing regime ongoing costs, the **industry body** must notify every user to whom rule 52.3 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 estimated balancing regime ongoing costs 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 **transmission system owner's** part of the **transmission system**, other than from a part of the **transmission system not owned by the owner** during the month before the month in which the relevant invoice is issued under rule 53.8; and
- (b) the total quantity of gas taken out of the **transmission system owner's** part of the **transmission system**, other than into a part of the **transmission system not owned by the owner** during the month before the month in which the relevant invoice is issued under rule 53.8; and

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C is the sum of –

- (a) the total quantity of gas injected or received into all parts of the **transmission system** other than from a part of the **transmission system owned by another transmission system owner** during the month before the month in which the relevant invoice is issued under rule 53.8; and
- (b) the total quantity of gas taken out of all parts of the **transmission system**, other than into a part of the **transmission system owned by another transmission system owner**, during the month before the month in which the relevant invoice is issued under rule 53.8; 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 their costs directly to users, not transmission system owners.]*

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

- 53.7.1** estimate and **publish**, at least 2 months before the beginning of the year, a breakdown of the estimated balancing regime ongoing costs for that year; and
- 53.7.2** as soon as practicable after publication of those estimated balancing regime ongoing costs, notify every person to whom rule 52.3 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 53.6.

53.8 The **industry body** must review the amount of the estimated balancing regime ongoing costs for a year at the end of each quarter and must, if the estimated costs differ materially from the costs **published** under rule 53.5 or 53.7.1 (or if relevant under rule 53.8.1) –

- 53.8.1** **publish** an updated breakdown of the estimated balancing regime ongoing costs for that year; and
- 53.8.2** as soon as practicable after publication of the updated estimated balancing regime ongoing costs, notify every person to whom rule 52.3 applies of the updated estimated balancing regime ongoing costs.

53.9 If during a year a **balancing operator** appointed under either subpart 2 or 3 of Part 3 ceases to carry out functions under these rules and a **balancing operator** appointed under the other subpart begins carrying out functions, the **industry body** must, having regard to rule 52.2,—

53.9.1 estimate and **publish**, as soon as practicable, a breakdown of the estimated balancing regime ongoing costs for the remainder of the year; and

53.9.2 as soon as practicable after publication of those estimated balancing regime ongoing costs, notify every person to whom rule 52.3 applies of the updated estimated balancing regime ongoing costs.

53.10 On the first **business day** of each month following the notification in rule 53.6, the **industry body** must invoice every person to whom rule 52.3 applies for that person's share of the estimated balancing regime ongoing costs payable during that month, calculated —

53.10.1 in accordance with the formula in rule 53.6; and

53.10.2 by reference to the last estimated balancing regime ongoing costs published under this rule 53.

54. How and when actual ongoing fees payable

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

54.2 As soon as practicable after the end of each year of operation (including in relation to the first year, any part year of operation), the **industry body** must determine and **publish** a breakdown of the actual balancing regime ongoing costs for that year (or part year).

54.3 No less than 10 **business days** after publication of the actual balancing regime ongoing costs under rule 54.2, the **industry body** must invoice, or issue a credit note, to each person who has paid estimated balancing regime ongoing costs during the year for the difference between—

54.3.1 that person's share of the actual balancing regime ongoing costs calculated in accordance with the formula in rule 53.6, with the necessary modifications; and

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

55. General provisions regarding fees

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

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

55.1.2 if the day referred to in rule 55.1.1 is not a **business day**, the following **business day**.

55.2 The fees payable under rules 50 to 54 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) must be added to the invoices or credit notes issued under rules 50 to 54.

55.3 The **industry body** must ensure that all information and returns supplied under rules 50 to 54 are used only for the purposes of collecting the development fee or fees and ongoing fees.

55.4 A **transmission system owner** may pass on the cost of any fees payable under these rules to **shippers** on its part of the **transmission system** in proportion to the quantities of gas **transmitted** by that **shipper** through the **transmission system owner's** part of the **transmission system** or on such other basis as may be agreed by the **industry body**. Users shall be required to pay such amounts. [Note: This rule should also empower transmission system owners to levy users for all costs incurred by transmission system owners on a direct appointment of the balancing operator. Without this, the cost recovery provisions in the rules incentivise an industry body appointment of the balancing operator. We assume this is unintentional.]

55.5 To avoid doubt, a person is not released from any obligation to pay a fee under this subpart because subpart 2 or 3 of Part 3, as applicable, no longer applies.

Deleted: The amount of any fees passed on by a **transmission system owner** must be net of any amount that the **transmission system owner** is able to recover from a **user** (for example, an amount that the **balancing operator** has been unable to recover under rule 6.2.1(a), and for which the **transmission system owner** is required to indemnify the **balancing operator** under a **balancing operator** service provider agreement or indirectly via the ongoing fee). ¶

Part 4
Miscellaneous

Audit of balancing operator's performance

56. Industry body to commission performance audits

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

56.2 The purpose of a performance audit is to assess—

56.2.1 the performance of the **balancing operator** in terms of compliance with these rules; and

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

56.3 The **industry body** must -

56.3.1 appoint as auditor a person who –

(a) is independent of and not in a position of conflict of interest with the **balancing operator** or a **transmission system owner**; and

(b) is not an officer or employee of the **industry body**; and

56.3.2 **publish** the identity of any auditor it appoints under rule 56.3.1, together with the auditor's terms of reference.

56.4 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**.

57. Provision of information to auditor

57.1 In conducting an audit under rule 56, the auditor may:

57.1.1 request any information from the **balancing operator**, the **industry body** and any **transmission system owner**; and

57.1.2 request to examine any processes, systems and data of the **balancing operator**, provided such processes, systems and data are

directly relevant to the performance of the **balancing operator** in terms of compliance with these rules.

- 57.2 Any request under rule 57.1 must be reasonable and strictly for the purposes of the audit.
- 57.3 The **balancing operator**, the **industry body** and every **transmission system owner** must comply with a request under rule 57.1 but nothing in this rule limits any claim for legal professional privilege.
- 57.4 In providing information to the auditor, a **transmission system owner** or the **balancing operator** may indicate to the auditor where such information is considered to be confidential.

58. Auditor to prepare draft audit report

- 58.1 The auditor must prepare, in writing, a draft audit report on its conclusions and recommendations formulated as a result of conducting an audit under rule 56.
- 58.2 Subject to rule 60, the auditor must give a copy of the draft audit report to –
 - 58.2.1 the **balancing operator**; and
 - 58.2.2 each **transmission system owner**; and
 - 58.2.3 the **industry body**.
- 58.3 The persons referred to in rule 58.2, have 10 **business days** from the date the report is received to provide the auditor with comments on the report.

59. Auditor to prepare final audit report

- 59.1 Before the auditor prepares a final audit report on the conclusions reached and recommendations formulated as a result of conducting an audit under rule 56, the auditor must take into account any comments received on the draft audit report.
- 59.2 The final audit report must be in writing and, if so requested by the **balancing operator**, must include as an appendix any comments from the **balancing operator** on the draft audit report.
- 59.3 The auditor must give a copy of the final audit report to –
 - 59.3.1 the **balancing operator**; and

59.3.2 any **transmission system** owner who the auditor considers has a material interest in the report; and

59.3.3 the **industry body**.

59.4 Subject to rule 61, once the auditor has given a final audit report under this rule, the report may not be altered in any way.

60. Confidential information in audit reports

60.1 In providing a draft audit report or final audit report, the auditor must provide a complete version to the **industry body**.

60.2 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.

61. Publication of final audit reports

The **industry body** must **publish** a version of each final audit report received under rule 60 that does not contain confidential information obtained in the conduct of the audit.

62. Use of final audit reports

62.1 To avoid doubt, a final audit report may be used –

62.1.1 for the purposes of the Gas Governance (Compliance) Regulations 2008;

62.1.2 for the purposes of considering any amendment to these rules or the **balancing plan**;

62.1.3 by the **industry body** -

- (a) for the purpose of reviewing the performance of the **balancing operator** under these rules, or under the **balancing operator** 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

63. Giving of ordinary notices

63.1 If these rules require any notice to be given, the notice must be in writing and be—

63.1.1 delivered by hand to the nominated office of the addressee; or

63.1.2 sent by post to the nominated postal address of the addressee; or

63.1.3 sent by fax to the nominated fax number of the addressee; or

63.1.4 sent by electronic transmission or any other similar method of electronic communication to the appropriate nominated electronic address of the addressee.

63.2 Despite rule 63.1, it is sufficient notice for the purposes of these rules if notice to **users** of the **balancing operator's** allocation of **balancing gas** and its associated **cash-out amount** is given via an **information exchange** accessible to the **user**.

63.3 This rule does not apply to the giving of urgent notices, but does apply to the confirmation of urgent notices under rule 65.

64. When ordinary notices taken to be given

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

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

64.1.2 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:

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

64.1.4 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.

64.2 This rule does not apply to the giving of urgent notices, but does apply to the confirmation of urgent notices under rule 65.

65. Urgent notices

65.1 Despite rule 63 and 65, 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.

65.2 If an urgent notice is given orally under rule 65.1 the person who gave that notice must, as soon as practicable, confirm that urgent notice in writing in accordance with rules 63 and 64.

Miscellaneous

66. Safety override

66.1 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.

66.2 However, rule 66.1 does not absolve a **user** (or in the circumstances in rule 19.3, a **transmission system owner**) from the liability to pay for any **balancing gas** allocated to it under rule 19.

67. Relationship with transmission system arrangements

All **transmission system arrangements** must be read subject to these rules and subject to all modifications necessary to give effect to these rules.

67.1 If both **transmission system arrangements** and these rules impose an obligation or liability in respect of the same matter, -

67.1.1 the obligation or liability under these rules prevails to the extent that the obligation or liability in the **transmission system arrangements** is inconsistent with or doubles up with an obligation in these rules; and

67.1.2 a party to the **transmission system arrangements** is not liable to comply with the **transmission system arrangements** to the extent that that obligation or liability in those **transmission system arrangements** is inconsistent with or doubles up with an obligation or liability under these rules.

67.2 In rules 67.1 and 67.2 **transmission system arrangements** do not include the Gas (Downstream Reconciliation) Rules 2008.

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

68.1 If the **balancing operator** receives notice under regulation 51 of the Gas Governance (Critical Contingency Management) Regulations 2008 that a critical contingency has been declared in respect of a part of the **transmission system** -

68.1.1 the **balancing operator** must cease to carry out its functions under rule 15 in relation to any **balancing zone** in which that part of the **transmission system** falls until a notice is received under regulation 62 of those regulations to advise that that the critical contingency has been terminated; and

68.1.2 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.

68.2 Rule 68.1.1 does not affect the validity of any **balancing action** taken by the **balancing operator** in relation to a part of the **transmission system** in respect of which a critical contingency has been declared before receiving notice of the declaration of the critical contingency, or affect the **balancing operator's** ability to allocate **balancing gas** and the associated **cash-out amount** in respect of that **balancing action**.

[Note: the balancing operator should recommence its functions under the Rules during a Contingency Event to support the pipeline prior to the restoration phase.]

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SCHEDULE

Requirements for balancing plan

A Balancing operator

The name and contact details of the person appointed or to be appointed as the **balancing operator** under rule 28.

B Information relating to balancing zones

1. 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**.
2. A statement as to whether each **balancing zone** will be **directly managed** or **indirectly managed** by the **balancing operator** (and at least one zone must be **directly managed**).
3. The following information in relation to each **directly managed balancing zone**:
 - a. the upper and lower threshold for the taking of **balancing action** by the **balancing operator**, which –
 - (i) must be set to give the maximum practicable difference between the upper and lower thresholds without unreasonably interfering with the transmission of gas; and
 - (ii) may be different for –

- (A) different periods of the day, week or year;
and
 - (B) different operating conditions within the **balancing zone** (for example, where the **balancing operator** has been notified of maintenance being carried out in the **balancing zone**); and
- (iii) may be defined by reference to a formula with measurable variables:
- b. the **target linepack**, which must be the midpoint between the upper and lower thresholds referred to in paragraph a.:
 - c. any points for measuring pressure that are reasonably necessary for the purposes of the **balancing operator** carrying out its functions.
4. The following information in relation to each **indirectly managed balancing zone**:
- a. the process by which the **balancing zone** will be managed (for example, by pressure regulator feed from a zone that is **directly managed**):
 - b. any functions or powers of the **balancing operator** agreed with transmission system operators in relation to the **balancing zone** (for example, to operate equipment):
 - c. the thresholds for the exercise of those functions and powers.
5. The processes for notification and coordination in relation to operational matters that may affect **linepack**.

C **Provision of information**

- 1. The methods and times for the giving of information required under rules 7 and 9 to the **balancing operator** by **users** and **transmission system owners**.

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2. The methods and times of notification of information by the **balancing operator to users and transmission system owners** for the purposes of these rules, including –
 - a. notifications of allocations of **balancing gas** under rule 20.1; and
 - b. any new allocations of **balancing gas** under rule 25.

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 Management) 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 **cash-out amount** from each **balancing action** that has the following features:–

- a. **balancing gas** is allocated based on the best information available under rule 9:
- b. **balancing gas** is allocated–
- (i) to the **users** who, the best information available shows, had an **imbalance** at the time the **balancing operator** committed to the **balancing action**; and
 - (ii) in the proportions that that information indicates the **user’s imbalance** contributed to the need to take the **balancing action**; and
 - (iii) only up to the quantity of the **user’s actual imbalance**:
- c. 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)** –
- (i) the relevant proportion of **balancing gas** and its associated **cash-out amount** is allocated to the **users in balancing zone B** who contributed to the **imbalance** in **balancing zone A**, rather than **users in balancing zone A** provided that any such allocation shall not be limited to the quantity of each user’s actual imbalance; and
 - (ii) within **balancing zone B**, the **balancing gas** sold or purchased and its associated **cash-out amount** of that gas are allocated -
 - (A) to the **users** who, the best information available shows, had an **imbalance** at the time the **balancing operator** commits to a **balancing action**; and
 - (B) in the proportions that that information indicates the **user’s imbalance** contributed to the need to take the **balancing action**; and

- (iii) provides for the adjustment of title to gas between users in **balancing zone A** and **balancing zone B**, to reflect the allocation of **balancing gas** to users in **balancing zone B**:
- d. if there is an **interconnection point** within a **balancing zone** -
 - (i) allocates any balancing gas and its associated **cash-out amount** that relates to any imbalance at the interconnection point to any users upstream or downstream of the **interconnection point** who contributed to the need to take the **balancing action** provided that any such allocation shall not be limited to the quantity of each user's actual imbalance upstream or downstream of the interconnection point; and
 - (ii) allocates **balancing gas** to any **interconnected party** in relation to any **imbalance** at the **interconnection point** only to the extent that that **imbalance** was not contributed to by the users allocated **balancing gas** in accordance with subparagraph (i); and
 - (iii) provides for the adjustment of the title to gas of any **interconnected party** in relation to any **imbalance** at the **interconnection point** to reflect the allocation of the **balancing gas** to the downstream **users**:
- e. the model is, as relevant, consistent with the Gas (Downstream Reconciliation) Rules 2008.

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Procedure for minor and technical or urgent amendments to the balancing plan

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Procedure for minor and technical or urgent amendments to the balancing plan

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Procedure for urgent, non-minor and technical amendments to balancing plan

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Procedure for urgent, non-minor and technical amendments to balancing plan

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