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Gas Industry Company Ltd
Level 8, The Todd Building
95 Customhouse Quay
PO Box 10-646
Wellington 6143

Trustpower Limited
Head Office
108 Durham Street
Tauranga
Postal Address:
Private Bag 12023
Tauranga Mail Centre
Tauranga 3143
F 0800 32 93 02
Offices in
Auckland
Wellington
Christchurch
Oamaru
Freephone
0800 87 87 87
trustpower.co.nz

TRUSTPOWER SUBMISSION: OPTIONS FOR INFORMATION DISCLOSURE IN THE WHOLESALE GAS SECTOR

Trustpower appreciates the opportunity to submit on the Gas Industry Company's ("GIC") *Options for Information Disclosure in the Wholesale Gas Sector* Consultation Paper (**the Consultation Paper**).

Trustpower has been a strong advocate for improvements to information disclosure in the wholesale gas sector for a number of years. We are highly supportive of the GIC progressing this current workstream as a matter of priority.

Recent experience in the gas and electricity markets

Information asymmetry in the gas market can have significant implications for outcomes in both the gas and electricity markets in New Zealand.

The unplanned gas production facility outage which occurred in late 2018, highlighted the intertwined nature of the gas and electricity markets. In particular, the fuel supply restrictions that occurred in the gas market had significant implications for electricity market customers, with smaller retailers lodging a claim with the Electricity Authority that an Undesirable Trading Situation (**UTS**) occurred, and triggering the first retailer default in the New Zealand Electricity Market.

The Electricity Authority's investigation identified that there was some information asymmetry regarding gas supply¹:

"The investigation has highlighted that:

- a) many participants are not making use of the range of publicly available information regarding gas supply and other factors affecting the wholesale market*
- b) the perception of information asymmetry was much larger than the actual asymmetry*
- c) publicly available information regarding gas supply and other factors affecting the wholesale market is difficult to find and interpret*
- d) there may be a perception that it is desirable or practical to eliminate information asymmetry*
- e) the information asymmetry would have been greater, but for the voluntary disclosure of information by entities not in the electricity industry."*

¹ Refer to paragraph 9.55 of *The Authority's decision on claim of an undesirable trading situation – Claim submitted 8 November 2018 by Electric Kiwi, Flick Energy, Pulse Energy, Switch Utilities (Vocus) and Vector* (released 28 February 2019).

It was however evident from the Electricity Authority's decision paper that the perception of information asymmetry was significant (at least amongst some participants) – potentially due to the lack of understanding of the gas market, and also the difficulties in attaining meaningful information. We note that the review of the UTS is still underway, with ASIC further investigating any potential insider trading in the electricity futures.

The experience last year has, in our view, reinforced that information transparency is vital to the overall effective operation of any market and that there is a need to objectively assess the current arrangements for information disclosure in the wholesale gas sector. As a result, we strongly support the GIC's current work programme to explore options for information disclosure.

Significant benefits from information disclosure

Transparency of information has significant benefits in ensuring a competitive and efficient gas market through enabling more efficient decision making, reducing information asymmetries, and ensuring a level playing field (to name a few benefits).

Information transparency can also have an important role in facilitating monitoring of the development and level of competition in the gas market, along with identifying any incidents of potential abuse of market power. Put simply, markets work better with better information.

Trustpower has strongly supported the progression of work to improve information disclosure in the gas market for a number of years. As part of our response to the Revised Draft Gas Transmission Access Code in September 2017, we recommended that:

*"... given transparency of information is pivotal to ensuring that the Gas Act and GPS objectives can be achieved, the development of regulatory arrangements to enhance transparency of information should be included on the Work Programme for the GIC (and MBIE) for FY2019."*²

In our submission on the GIC's FY2019 Work Programme and Levy we noted:

*"... during FY2019 there would be value in the GIC facilitating an independent review of the current level of information transparency in the New Zealand gas market with a view to identifying areas for improvement across the industry, including through potential new regulatory arrangements ... Given the stage in the industry's development, we consider it is timely to undertake a comprehensive review of information transparency as it is an integral part of achieving all the Gas Act and Government Policy Statement objectives."*³

Our more recent submission on the GIC's FY2020 Work Programme and Levy strongly supported the GIC's progression of the current information disclosure workstream, noting the following:

"We continue to consider that improving information transparency is an integral part of achieving all the Gas Act 1992 (the Act) and Government Policy Statement (GPS) objectives"

"In Trustpower's view, the preferred outcome for improving information transparency in the gas industry is a regulated solution. A number of commercial sensitivities can arise in relation to core aspects of the market arrangements where transparency may be sought, including facility outages. As a result opaqueness may be preferred by some parties."

² Trustpower submission: Revised Draft Gas Transmission Access GTAC at p 17, online at: <https://gasindustry.co.nz/assets/Consultations/Uploads/Trustpower-Revised-GTAC-Response.docx>

³ Trustpower submission: GIC FY2019 Work Programme and Levy at p 4, online at: <https://www.gasindustry.co.nz/assets/Consultations/Uploads/Trustpower-GIC-Work-Programme-and-Levy-Funding-FY2019-Final.pdf>

Inefficiencies are being caused by asymmetry of information in the gas market

We consider that there are a number of aspects of the current gas market arrangements which are opaque and created broader inefficiencies. While First Gas has worked hard to improve transparency over elements of its pipeline operations, a number of information asymmetries will still remain within the broader market. These have been captured in the GIC's assessment in the Consultation Paper and include (in order of priority):

- Planned and Unplanned Outages for production facilities and major gas users – this information is required to ensure the efficient operation of both the gas and electricity markets;
- Forecast production over the short and medium term – this information is required by Transpower so they can understand any operational limitations on thermal fuel availability for power generation when forecasting security of supply. Transpower has been consulting on the proposed treatment of thermal fuel availability in the hydro-risk curves since early 2018, but have indicated issues in understanding thermal fuel availability;
- Linepack information for transmission pipelines – The amount of gas stored in the ex-Vector transmission system is not clearly visible to the market. The amount of gas in the system available for storage needs to be made available to the market to ensure parties have full access to stored gas. We note that First Gas is working on a means to allow parties to access storability.

While we acknowledge that there is currently a gap with respect to average wholesale price and aggregate traded volume (covering gas traded under bilateral contracts and brokered arrangements), it is not clear this is creating any inefficiencies in the gas market that need to be immediately addressed.

- We caution that any information released around average wholesale price and volumes would need to appropriately take into account the nuances of contracts. Contracts for gas are generally priced to reflect a number of characteristics of the agreement including force majeure provisions, carbon pricing, and flexibility. Gas price and volume information on its own may be misleading.
- We note it is possible for interested parties to access gas price information through the emsTradepoint platform for a modest subscription fee, as discussed at the public workshop.
- A better understanding of the ACCC's new periodic series of weighted gas price information may assist the GIC and industry in considering this option, given the commercial sensitivity of long term gas contracts. One option might be for the ACCC to present to the NZ gas industry around its work in this area so we can gain a better understanding of what has been adopted in Australia and how it is being used.

For the sake of expediency the GIC should consider addressing each of these information gaps separately and in the order of priority outlined above. For example, the largest benefits will likely be associated with the release of planned and unplanned outage information by producers and major gas users. These improvements should not be delayed while more controversial elements are debated by industry, such as the public release information relating to average wholesale gas prices.

We acknowledge the interrelated question of whether the GIC has the power to implement regulation, or can rely on an informal industry agreement. This is explored further in the following sections.

A regulated solution is required

In Trustpower's view a regulated solution will be required to improve information transparency in the gas industry.

As outlined previously, there will be a strong driver for some parties to maintain opacity throughout this process. We anticipate that this will be the case for core aspects of the market arrangements where improved transparency is required to improve the overall efficiency of the market, but where there are potential commercial benefits under the existing arrangements.

Given the varying commercial drivers and clear benefits to the overall market associated with information disclosure (as outlined above), we consider there will most likely be a need for a legislative requirement for information to be made publicly available in a timely manner. Alternatively it is likely that the commercial drivers of existing parties may limit the improvements that can be achieved through this workstream.

Ensuring the GIC has sufficient powers to regulate in this area will require a change to the Gas Act, which is currently being progressed by MBIE. We support MBIE in ensuring that the GIC's powers are not unintentionally constrained in considering information disclosure in the wholesale gas market. We also note that the electricity market will also experience significant benefits from improvements in information transparency in the gas market. It is important that these broader benefits can be appropriately taken into account by the GIC when considering this important matter.

Voluntary solution may provide “stop-gap” measure

It may take some time for the Act to be updated to enable the necessary new regulations to be established. In the interim we support industry exploring whether it could agree a short-term voluntary solution.

Our view is that a voluntary solution would be:

- challenging to agree amongst industry, but would potentially provide an opportunity for some “quick wins” to be delivered, particularly with respect to outage information; and
- inappropriate in the long-run given the challenges with compliance noted by the GIC and the likelihood that any voluntarily agreed arrangement is “watered down” and so wouldn't fully address issues with asymmetry of information in the gas market.

We caution the GIC over enabling industry too long to attempt to derive a voluntary solution to this challenging, but important issue and consider that regardless of any voluntary agreements a regulated solution will ultimately be required.

Comments on design of information disclosure arrangements

As outlined earlier we consider there are clear gaps within the current wholesale gas market arrangements for information disclosure which need to be addressed to ensure that the objectives of the Gas Act and GPS can be achieved. A regulatory solution will ultimately be required, although a voluntary arrangement may suffice in the interim and enable some quick wins to be achieved.

Within this context we suggest that the GIC should consider the following matters in designing any information disclosure arrangements.

Principles-based vs. rules-based approach to information disclosure

We support the GIC adopting a principles-based approach to information disclosure, with clarification of the requirements provided in supporting documentation. Supporting documentation should contain details relating to “what” needs to be published, along with “when” information needs to be published and “where” it needs to be published. This will remove any uncertainty for participants and ensure a

consistent approach to information disclosure that is cost effective in meeting the Gas Act and GPS objectives.

This combined approach would strike a balance between enabling the arrangements to have sufficient flexibility to address changing circumstances, while also providing appropriate guidance around expectations of what should be published for participants.

We understand a similar approach has been adopted regarding information disclosure in the New Zealand electricity market.

Establishment of guiding principles for design of information disclosure arrangements

We support the GIC establishing some guiding principles for the design phase of any information disclosure arrangements. Guiding principles should assist with providing a clear framework for the development phase and satisfy all stakeholders that their competing interests will be appropriately balanced through the process. We note that similar arrangements were adopted in Western Australia during the development of the Gas Bulletin Board and Emergency Management Facility arrangements.

Based on the West Australia experience, we suggest the following principles for the GIC's consideration:

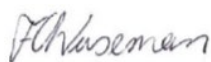
- Transparency of information should be maximised, unless there is a clear justification to not do so. The benefit of information needs to be balanced against the need for appropriate protections for confidential and commercially sensitive information;
- Information provision requirements should apply symmetrically to gas supply, transportation, storage and usage, recognising the different functions of the facilities;
- The effort required to obtain any information should not be out of proportion with the benefit gained from the availability of that information. Where possible, maximum use should be made of existing and public data sources;
- A single repository for all relevant gas market data should be established to ensure a "single source of the truth"; and
- Information should be current and in a clear and easy to interpret form. To ensure the quality of data it should be provided by its source.

Independent cost-benefit required

Given the strong drivers from some parts of the sector to maintain opacity, we consider that an independent cost-benefit assessment should be undertaken in this case. This will provide greater confidence to concerned parties that the proposed new regime will provide net benefits and will add to the overall integrity of the GIC's decision making process.

If you have any questions relating to the material in this submission, please contact me directly on 027 549 9330, or alternatively Craig Schubauer, Wholesale Markets Manager on 021 816 830.

Regards,



Fiona Wiseman

Senior Advisor, Strategy and Regulation