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Dear Peter

Levy for 2009/2010

Genesis Power Limited, trading as Genesis Energy, welcomes the opportunity to provide a submission to the Gas Industry Company (GIC) on the consultation paper "FY2010 Levy for Gas Industry Co" dated 16 January 2009.

Appendix A provides Genesis Energy's responses to the consultation questions. Additional comments are set out below.

Genesis Energy's main recommendations are as follows.

- The GIC should test whether the Minister of Energy and Resources (the Minister) wishes to pursue all of the work set in train by the previous government.
- Ideally, the GIC should recover all costs via its levy-making power rather than through market fees (or a combination of market fees and levies). Failing that, the GIC needs to be scrupulously transparent about its costs.
- Infrastructure investment costs should be spread over a number of years.

The remainder of this submission covers each of these recommendations in turn, followed by a number of more minor points.

Testing Government Priorities

Since publication of the April 2008 government policy statement on gas governance (the GPS), the state of the economy has deteriorated, there has been a change of government, and government departments have been directed to carry out line-by-line reviews of expenditure.

In light of these developments, it would be prudent to test whether the Minister would prefer the GIC to defer some of its planned work in favour of controlling expenditure and lowering levies. To achieve this, Genesis Energy recommends the GIC should analyse the effect on gas levies of deferring discretionary work and provide this information to the Minister as part of its levy advice.

This process could leave the GIC Board's strategic planning role intact by focussing on items mainly included in the GIC's work programme because of the GPS. Genesis Energy suggests that the items in the table below are candidates for deferral or removal from the GIC's work programme.

Item	Comments
Advice on direct use of gas	Not a gas governance issue and duplicates work by other organisations. ¹
Approval of a complaints resolution scheme	There is a healthy voluntary market for complaint resolution schemes.
Domestic retail contracts	There is no clear evidence of problems given the level of competition in energy retail markets.
Market structure and participant roles	No clear problem to be addressed.
Arrangements for reconciliation of upstream gas quantities	No clear problem to be addressed.
Gas processing facility disclosure ²	GIC's own analysis found no clear case for intervention.

¹ Notably, CAENZ prepared a report for the Gas and LPG associations in 2008. http://www.lpga.co.nz/pdfs/qanz_report_latest.pdf

² Existing regulations would need to be revoked to delete this item from the GIC's work programme.

Item	Comments
Access to distribution pipelines	Not clear that this is a priority area.

The consultation paper does not provide enough information to assess what the savings would be from deferring or removing these items. However, removing these items from the 2010 budget would allow GIC to:

- focus on bedding in its major new initiatives (downstream reconciliation, registry and switching, critical contingency management, and the “trial” gas exchange);
- develop its framework for assessing industry performance and build an information base and strategic perspective to support future policy work; and
- pursue a modest number of new policy work streams using internal resources (that is, without requiring external consultants).

The new policy work streams referred to above would include:

- transmission pipeline balancing;
- transmission pipeline access; and
- improving consistency of standards and protocols for distribution pipeline access.

Genesis Energy considers that prioritising these items would deliver the best value for consumers.

Market Fees and Transparency

Genesis Energy maintains that it would be preferable for the GIC to recover its full revenue requirement via the levy allowed under s43ZZB of the Gas Act 1992, rather than using “market fees” to recover some service provider costs. Market fees are simply levies by another name. Embedding a separate levy within each set of regulations:

- makes it more difficult to track the total cost of the GIC’s activities;

- can make it more difficult for industry to manage their retail tariffs (if market fees change during the financial year) and more difficult for consumers to understand their invoices; and
- circumvents the checks and balances built into the process for setting the s43ZZB levy and, in Genesis Energy’s view, remains at risk of being *ultra vires*.

If the GIC continues to use market fees, then it must ensure that it does not provide misleading year-on-year comparisons of its funding requirements. Overall, the consultation paper provides reasonably good, clear information on the GIC’s proposed work programme and associated revenue requirements.³ However, the range of funding sources (which this year also include a one-off levy) still make comparison difficult. The following table illustrates this difficulty.

Measure	FY2009	FY2010	Change
Retail Levy	\$7.42 per ICP	\$7.91 per ICP	+6.6%
Wholesale Levy	1.79 ¢ per GJ	1.77 ¢ per GJ	-1.1%
Revenue Requirement	\$5.69 M *	\$7.61 M #	+33.7%

Notes:

* Includes forecast total levy income, establishment market fees and ongoing market fees (all from Table 1 of the consultation paper) less the \$1.05M in unanticipated costs proposed to be recovered via a one-off levy in FY2010.

Includes direct and indirect work programme costs less over-recoveries from prior levies as set out in Table 3 of the consultation paper, plus the one-off levy. If the one-off levy is excluded, the revenue requirement change is an increase of 15%.

The “headline” figures of +6.6% and -1.1% are potentially misleading if they are used in isolation to summarise levy changes. The actual cost increases for consumers will be larger than the levy figures suggest and closer to the 33.7% figure calculated above.

Genesis Energy recommends that, at a minimum, the 33.7% figure above should be used in the executive summary of the levy paper, in the summary (Section 7) and in any media and stakeholder communications.

³ The information provided on strategy, work programme, and costs is markedly better than the comparable information provided by the Electricity Commission in its work priorities and appropriation consultation.

Financing Infrastructure Investment

Over the 2009 and 2010 financial years, the GIC has committed to three major market infrastructure development projects:

- downstream reconciliation systems;
- registry and switching systems; and
- transmission pipeline critical contingency arrangements.

The service provider contract for the critical contingency operator allows for recovery of development costs over the term of the contract, but recovery of development costs for the other systems is in single instalments. Participants were invoiced \$1.075M for estimated registry and switching development costs in October last year. In July 2009, participants will be invoiced \$1.05M for downstream reconciliation development costs.

Genesis Energy prefers the approach taken for the critical contingency arrangements, because:

- market infrastructure is intended to be long-lived;
- financing market infrastructure over several years better matches costs to benefits over time; and
- cash flows are less volatile.

Genesis Energy encourages the GIC to investigate whether it can spread the downstream reconciliation development costs over the life of the service provider contract. If this is possible without comprising rights under the service provider contract, then it would be preferable to invoicing participants for the full \$1.05M in one instalment.

Other Points

Genesis Energy also has the following comments on the GIC's levy consultation paper:

- the GIC currently holds levy over-recoveries for more than two years before crediting the sum against its budgeted revenue requirement. Levy payers would prefer to see this lag reduced to one year under normal circumstances. In cases where it becomes obvious part way through a financial year that over- or under-

recoveries will be large, it would be preferable to seek Cabinet approval to alter the levy part way through the year;

- it would be useful if the GIC could develop organisation-based and/or activity-based performance benchmarks to help stakeholders assess the value for money delivered by the GIC;
- gas industry stakeholders would welcome meaningful opportunities to be involved in setting the GIC's strategic priorities. The consultation paper appears to over-state the extent to which the GPS dictates the GIC's regulatory agenda; and
- the consultation period for the levy paper is too short. If the GIC values stakeholder input, it should provide at least four weeks for responses.

If you would like to discuss any of these matters further, please contact Ross Parry on 04 495 3348.

Yours sincerely



John A Carnegie
Regulatory Affairs Manager
Genesis Energy

Appendix A: Responses to Consultation Questions

QUESTION	COMMENT
<p>Q1: Do you agree with the proposal not to alter the structure of the levy for the 2010 financial year?</p>	<p>Yes.</p> <p>However, Genesis Energy would support changes to the levy structure if necessary as part of transferring funding from market fees to the levy.</p>
<p>Q2: Do you agree with the proposal to recover the establishment costs of the Gas (Downstream Reconciliation) Rules 2008 by way of a one-off Special Purpose Levy, calculated on the same basis used to allocate the ongoing operational costs?</p>	<p>Genesis Energy would prefer development costs to be recovered over the term of the service provider contract, rather than in a single instalment. Refer cover letter section "Financing Infrastructure Investment".</p> <p>Genesis Energy agrees with allocating costs based on reconciled volumes for consistency with the rules.</p>
<p>Q3: Do you agree with the proposed policy for funding the establishment, implementation and ongoing administration costs of gas governance arrangements?</p>	<p>No.</p> <p>Genesis Energy believes the GIC should use the levy to recover internal and external costs. Refer cover letter section "Market Fees and Transparency".</p>
<p>Q4: Do you consider there to be any other items in the external work programme which should be included in the Company's strategic priorities for FY2010?</p>	<p>Genesis Energy recommends that the GIC should look for opportunities to defer or remove some items from its work programme. Refer cover letter section "Testing Government Priorities".</p>
<p>Q5: Do you have any comment on the levy funding requirement for FY2010?</p>	<p>Refer Q2 -Q4 above.</p>

QUESTION	COMMENT
<p>Q6: Do you have any comment on the proposed levy for FY2010?</p>	<p>The summary should include information on market fees, as these are levies by another name.</p> <p>Including market fees and the proposed “one-off levy”, the actual levy increase proposed is nearly 34%. This reflects the start up of three major new sets of market arrangements, but is nonetheless a significant increase in costs. Given the current economic conditions and the focus in the public sector on reducing costs, it would be sensible for the GIC to explore options for reducing this cost impact. This should include:</p> <ul style="list-style-type: none"> • testing whether some work programme items can be deferred; and • investigating whether recovery of downstream reconciliation development costs can be spread over the life of the service provider contract. <p>Refer cover letter sections “Testing Government Priorities” and “Financing Infrastructure Investment”.</p>