

21 December 2010

Hon Hekia Parata
Associate Minister of Energy and Resources
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WELLINGTON 6160

Dear Minister

Advice on Interconnection to Open Access Transmission Pipelines

In this letter we set out Gas Industry Co's advice on regulations for interconnection to open access transmission pipelines. Provision of this advice is a milestone in our 2011-2013 Strategic Plan.

Background

The Gas Act 1992 (Gas Act) provides for regulations to be made for the purpose of 'prescribing reasonable terms and conditions for access to transmission or distribution pipelines'. The means of allowing parties to physically interconnect their facilities with those of a transmission system owner (TSO) is an important aspect of such 'access' arrangements. Past analysis by Gas Industry Co revealed problems with interconnection arrangements including poorly defined interconnection processes, uncertain technical requirements, confusing roles and responsibilities, and liability/insurance issues.

In response to the identified problems, Gas Industry Co considered that a non-regulatory solution could be found, and issued the *Transmission Pipeline Interconnection Guidelines* (the Guidelines) in February 2009. The Guidelines set out Gas Industry Co's view on the features of good interconnection practice. Although the Guidelines have no legal standing, they are expected to be a useful guide for TSOs in developing their interconnection services. The Guidelines propose that each pipeline owner creates an Interconnection Policy. The Policy would provide transparency of interconnection arrangements by setting out processes, information requirements, technical and commercial principles and processes, and a dispute resolution process.

Review process

When Gas Industry Co published the Guidelines, we undertook to monitor their effectiveness in influencing the TSOs' interconnection services. We reviewed interconnection arrangements in September 2009.

On 11 December 2009 we wrote to the Associate Minister of Energy and Resources (Associate Minister) and reported that the TSOs' response to the Guidelines had been slow, but in the right direction. Both pipeline owners acknowledged they had further work to do. We therefore recommended a further review in June 2010 in which we would formally assess whether the interconnection services offered by Vector and MDL meet the Gas Act and the April 2008 Government Policy Statement on Gas Governance (GPS) objectives. We noted that if the second review found the objectives were not being adequately met then we would consider the options, including regulation. In her letter dated 1 February 2010, the Associate Minister stated her agreement with the extended timeframe.

Gas Industry Co began the second review of TSOs' interconnection arrangements in June 2010. Unfortunately, we were unable to obtain all the information we needed until October 2010. We wrote to officials on 7 September 2010 advising them we might be unable to meet the December 2010 milestone in Gas Industry Co's Strategic Plan for developing and consulting on interconnection regulations, if required. However, we have now completed the second review and consider that regulation is unnecessary at present.

The findings of both reviews are described below.

Findings of the September 2009 review of interconnection arrangements against the Guidelines

In September 2009, Gas Industry Co found MDL's and Vector's interconnection documents were generally well aligned with the Guidelines, but incomplete. The most significant omissions were:

- an interconnection policy to provide an overall framework of the process and improve transparency; and
- a means of resolving disputes with parties seeking interconnection that arise before contractual arrangements are entered into ('pre-contractual disputes').

We reported our findings to MDL and Vector, highlighting areas we thought could be improved.

Findings of the 2010 review of interconnection arrangements against the Gas Act and GPS objectives

The second review of interconnection arrangements formally assessed them against the Gas Act and GPS objectives. We found that, in response to the previous review, both TSOs had prepared draft interconnection policies, which meet most—but not all—of our evaluation criteria (which were based on the Gas Act and GPS objectives).

With respect to pre-contractual disputes, both TSOs have included disputes processes in their policies. We found areas for improvement in these processes.

- MDL has extended its contract dispute resolution process to cover some pre-Interconnection Establishment Agreement (ICEA) disputes. Although this arrangement does not afford a dispute resolution process for *all* issues that might arise, it is more effective than the current arrangements. Nevertheless, we believe that the arrangement should be extended to allow for independent consideration of all issues in dispute.
- Vector's draft interconnection policy includes a process for resolving pre-ICEA disputes, but falls short of providing an independent review. Gas Industry Co acknowledges that a full dispute resolution process, for pre-contract disputes, could require regulation to establish the principles of interconnection. However, Vector could pre-empt this by establishing principles in its draft policy and including a binding arbitration process.

We have sent MDL and Vector the results of our analysis, which highlight the areas that we believe have scope for improvement.

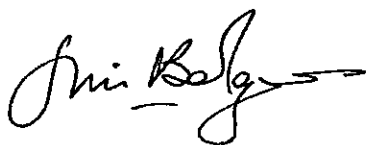
Advice

Gas Industry Co's advice on interconnection arrangements for transmission pipelines is that regulation is unnecessary at this stage. We conclude from our analyses of interconnection arrangements that the TSOs have made efforts to improve their processes to align with the Guidelines and objectives of the Gas Act and GPS. Although we think the arrangements for dealing with disputes that arise between an interconnecting party and a TSO at the early stages of their discussions (pre-contract disputes) can be improved further, we believe this can be achieved without regulation.

The TSOs' proposed interconnection arrangements have not yet been finalised and processed through their companies' internal approval processes. Gas Industry Co will write to MDL and Vector requesting that this be done in a timely manner, and to advise us of any changes that may result.

Once the arrangements are in place, Gas Industry Co proposes reviewing how well they perform in practice by evaluating the next interconnections to the Vector and MDL pipelines. We will then make appropriate recommendations.

Yours sincerely



Rt Hon J Bolger, ONZ

Chair

Encl.

2010 Review of MDL's Transmission Pipeline Interconnection Arrangements