Draft Recommendation on the 18 April 2011 MPOC Change Request

Date issued: 8 June 2011
Submissions close: 5pm, Tuesday 28 June 2011

GAS INDUSTRY COMPANY LIMITED

171034.2

About Gas Industry Co.

Gas Industry Co was formed to be the co-regulator under the Gas Act.

As such, its role is to:

- recommend arrangements, including rules and regulations where appropriate, which improve:
  - the operation of gas markets;
  - access to infrastructure; and
  - consumer outcomes;
- administer, oversee compliance with, and review such arrangements; and
- report regularly to the Minister of Energy and Resources on the performance and present state of the New Zealand gas industry, and the achievement of Government's policy objectives for the gas sector.

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1 Introduction

1.1 Purpose

This paper presents an analysis of, and draft recommendation in respect of, the Maui Pipeline Operating Code (MPOC) change request submitted by Maui Development Limited (MDL) on 18 April 2011 (the April Change Request).

1.2 Background

Gas Industry Co's role under the MPOC

Section 29 of the MPOC assigns Gas Industry Company Limited (Gas Industry Co) a role in respect of any proposed amendment to the MPOC (a change request). Gas Industry Co's role is to consult on the change request with the gas industry and determine whether or not to support it. A change request proceeds only where required by law or where Gas Industry Co makes a written recommendation to MDL supporting the change request. MDL has sole discretion to reject a recommendation if it considers the change would materially adversely affect its business, or require MDL to incur a capital expenditure (that may not be recoverable).

Gas Industry Co has agreed a memorandum of understanding (MoU) with MDL describing how its role will be performed. The MoU sets out a process under which Gas Industry Co receives a change request, calls for submissions, issues a draft recommendation, considers further submissions, and finally makes a recommendation to MDL. For further information (including a copy of the MoU) please refer to Gas Industry Co's website at www.gasindustry.co.nz.

Capitalised terms used in this recommendation have the same meaning given to those terms in the MPOC, unless stated otherwise.

Current change request and process to date

On 18 April 2011, Gas Industry Co received the April Change Request from MDL. The April Change Request proposes amendments to:

- Section 1.1 (Definitions) to reflect the end of the National Gas Outage Contingency Plan (and its replacement with the Gas Governance (Critical Contingency Management) Regulations 2008) and to include new terms to reflect the proposed changes to section 20;

- Section 4 (MDL IX) to make more information on real time pipeline conditions and Operational Imbalances at all Welded Points available to all parties; and
- Section 20 (Prudential Requirements) to reduce MDL's exposure to credit risk, improve clarity and in some cases to correct manifest errors.

On 29 April 2011, Gas Industry Co notified industry participants of the change request and invited submissions to be made. Five submissions on the April Change Request were received. These submissions are summarised in Section 4 of this draft recommendation.

1.3 Invitations for submissions

Gas Industry Co invites submissions on this draft recommendation.

Submissions are due by **5pm, Tuesday 28 June 2011**. Please note submissions received after this date may not be considered.

We prefer receiving submissions in electronic form (Microsoft Word format and PDF). Submissions may be uploaded on our website at www.gasindustry.co.nz. You will need to log in as a user and upload the submission on the consultation page by clicking on the submissions button.

Gas Industry Co will acknowledge receipt of all submissions electronically. If you do not receive electronic acknowledgement of your submission within two business days, please contact Jay Jefferies on 04 494 2469.

Gas Industry Co values openness and transparency and usually places submissions on our website. If you intend to provide confidential information in your submission, please discuss this first with Ian Wilson at Gas Industry Co (04 494 2462).

2 Approach to analysis

2.1 General approach to analysis

As set out in Section 2.4 of the MoU, Gas Industry Co is required to prepare an analysis of the issues under consideration, including a cost-benefit analysis (unless Gas Industry Co is satisfied that the issues are minor and will not adversely affect the interests of an industry participant in a substantial way). This analysis will have regard to the objectives of section 43ZN of the Gas Act (as noted in Section 2.3 of the MoU).

Interested parties who wish to make a submission on this draft recommendation should be aware that Gas Industry Co's analysis of any change request is subject to some constraints. In particular, Gas Industry Co is not free to reject a change request because it considers there may be a better alternative, or to approve some parts of the change request but not others, or to make its approval conditional. These constraints are outlined in further detail below.

Changes are assessed relative to the existing MPOC

Gas Industry Co's contractual role under the MPOC requires it to evaluate whether proposed changes will provide a net benefit, with reference to the existing MPOC.[1] Gas Industry Co cannot reject a change request because it believes there may be a better alternative that has not yet been presented.

A change request cannot be partially approved

Change requests, including the April Change Request, often comprise a number of proposed changes to the MPOC. Gas Industry Co has previously considered whether it can approve some such changes and reject others. Our conclusion is that this is not possible. A change request is submitted as a package and must be approved or not approved in its entirety. For this reason, Gas Industry Co encourages submitters to limit the scope of change requests. This allows for easier analysis and lowers the chance that one unacceptable aspect of the request can cause the whole request to be rejected.

Approval of a change request much be substantially unconditional

Although a change request cannot be partially approved, it can be approved subject to some small

[1] This contrasts with Gas Industry Co's role when assessing options under the Gas Act. In that situation we are required to indentify and consider all practicable options for achieving a Gas Act objective before making a recommendation to the Minister.

changes being made. This avoids the situation where a minor or technical error in a change request requires the change request to be resubmitted.

2.2 Approach to analysing this change request

Gas Industry Co has carried out its analysis of the April Change Request in accordance with Section 2.1 above. The outcomes of this analysis are described in details in Section 6 of this draft recommendation.

Given the relatively limited nature of the changes, Gas Industry Co has not carried out a fully quantified cost-benefit analysis. Gas Industry Co considers a limited cost-benefit analysis is sufficient and appropriate.

3 Proposed changes

3.1 Overview of changes

The April Change Request proposes changes that can be organised into three groups:

- Information on MDL IX (section 4);
- Prudential requirements (section 20); and
- Consequential changes and minor amendments.

Each of these categories is outlined in further detail below.

3.2 Information on MDL IX

The April Change Request proposes amendments to section 4 (MDL IX) of the MPOC. The changes are directed at making more real time information on pipeline conditions and Operational Imbalances publically available.

MDL considers the additional information will help parties make more informed decisions in relation to their primary balancing obligations under the MPOC, and to reduce their exposure to balancing costs.

The additional information MDL proposes to make publically available on the MDL IX is outlined in the table below.

Table 1 Proposed information to publish on the MDL IX

Proposed information	Frequency of posting
Operational Imbalance for each Welded Point	*Unvalidated:* For each Transmission Day by 8:00am the following Day. *Validated:* For each Transmission Day by 12:00pm on the next Business Day and in accordance with sections 12.2 to 12.4.
Running Operational Imbalance for each Welded Point	*Unvalidated:* For each Transmission Day by 8:00am the following Day. *Validated:* For each Transmission Day by 12:00pm on the next Business Day and in accordance with sections 12.2 to 12.4.

Provisional Cycle Scheduled Quantity at each Welded Point pursuant to section 9.4	Each Nomination Day by 6:00pm.
Changed Provisional Cycle Scheduled Quantity at each Welded Point pursuant to section 9.7	For each Transmission Day by 6:00pm of the Previous Day.
Intra-Day Cycle changes to Scheduled Quantities at each Welded Point	Within 2 hours after the Intra-Day Nomination Deadline.
Hourly Scheduled Quantity at each Welded Point	For each Transmission Day, by 12:00pm on the following Day.
Quantities of Gas purchased or sold at each Welded Point in accordance with section 12.11	Within 2 hours after the Intra-Day Nomination Deadline.
Quantities of Gas traded at each Welded Point in accordance with section 12.17	For each Transmission Day, by 12:00pm on the following Day.

3.3 Prudential Requirements

The April Change Request proposes several changes to section 20 of the MPOC (Prudential Requirements).

Increase in maximum amount of Cash Deposits

Under the proposed changes, the maximum amount of Cash Deposits and/or third party securities provided to MDL is increased. Currently the maximum amount equates to one month's worth of Throughput Charges for the Shipper (based on the highest monthly throughput forecast for that Shipper). The change would see the maximum amount increase to equate to three times the level of the highest Throughput Charge for the relevant Shipper in the previous 12 months (with provision for estimation by MDL in the first 12 months).

In the April Change Request, MDL acknowledges the additional compliance burden this may result in for some Shippers, although does not quantify the nature of this perceived burden. It notes, however, that any payment default by a Shipper currently leaves MDL exposed to credit risk in respect of:

- the month in which the Throughput Charge was incurred;
- the current month (in which services have been provided but not invoiced); and
- the month following the current month.

This ‘three month’ credit risk arises due to the timeframe involved before MDL can terminate its TSA with the Shipper. MDL asserts that any losses suffered by MDL would be passed onto all Shippers through higher Throughput Charges in subsequent periods.

MDL therefore considers the change to embody a 'causer pays' approach to avoid losses (as a result of a Shipper defaulting on payment) having to be socialised across participants.

MDL also points out in its application that Vector imposes similar prudential requirements on the shippers using its pipeline as those proposed by the April Change Request. Under the Vector Transmission Code (VTC), shippers are required to provide security equal to Vector's reasonable estimate of three months of their transmission charges.

Credit ratings

MDL proposes to amend the threshold for an acceptable credit rating so that a credit rating which otherwise sits at the minimum level (Baa2 (Moody's Investors Service), BBB (Standard & Poor's) or B (AM Best)) ceases to be acceptable if the rating is subject to negative credit watch. Previously, in addition to the imposition of negative credit watch, MDL had to have reasonable grounds to believe the minimum credit rating would not be maintained. MDL is also seeking greater control as to what level of alternative credit reference is or is not acceptable. Under the proposed changes, an alternative reference must be reasonably acceptable to MDL.

MDL characterises the changes as removing ambiguity. Gas Industry Co however considers that they do represent a substantive change, in that they do tighten the credit rating requirements.

Other changes

The other proposed changes to section 20 seek to clarify any ambiguity that might result from the operation and application of these provisions. The changes seek to clarify that:

- section 20.4 is intended to establish what an acceptable credit rating is in the context of a third party service provider, and not in respect of a Shipper or Welded Party; and
- the independent auditor providing confirmation (under section 20.3(a)) does not need to be the same independent auditor that audits the Incentive Pool (under section 14.8).

3.4 Consequential and minor amendments

MDL has also proposed several consequential and minor amendments. The consequential amendments include two new definitions in section 1 to reflect the changes proposed to the Prudential Requirements.

The April Change Request also proposes the deletion of all references to the National Gas Outage Contingency Plan. The Plan has been replaced by the Gas Governance (Critical Contingency Management) Regulations 2008.

4 Submissions

Submissions on the April Change Request were received from the following five parties:

- Contact Energy Limited (Contact);
- Energy Direct NZ (EDNZ);
- Greymouth Gas New Zealand Limited (Greymouth);
- Mighty River Power Limited (MRP); and
- Vector Limited (Vector).

4.1 Contact

Contact is partially supportive of the April Change Request. It supports the following amendments:

- deletion of the references to the 'Industry Contingency Plan';
- increased information disclosure on the MDL IX; and
- the majority of the changes to the Prudential Requirements – sections 20.1, 20.2, 20.3(a), 20.6 and 20.7.

However, Contact does not agree with the proposed changes to section 20.3(b) and 20.4(b), or the rationale MDL has given for them. It considers that a party having the minimum acceptable credit rating that is subject to negative credit watch is not necessarily a higher risk but that, in any event, the current wording provides for a way to deal with that through the existing reference to ‘reasonable grounds’.

Contact believes the correct amendment would be to align these sections of the MPOC with section 14.3 of the VTC.

4.2 EDNZ

EDNZ has no objection to the proposed changes.

4.3 Greymouth

Greymouth first raises two 'fundamental process concerns' in respect of the April Change Request. It claims that Gas Industry Co may have a conflict of interest if it is both a Welded Party under the MPOC and the body responsible for making recommendations on MPOC changes. It also considers that the objectives set out in section 43ZN of the Gas Act are not suitable for assessing 'commercial changes' of the kind proposed by the April Change Request. The effect, in Greymouth's view, is that Gas Industry Co's decision whether or not to recommend the April Change Request 'is not qualified by effective and appropriate considerations'.

Greymouth is also concerned that changes that may have a negative effect on the market can be bundled with other changes so that the overall net effect of a suite of proposed changes is positive. Greymouth considers that Gas Industry Co should develop a policy to allow it to reject any such change request in total, or at least to 'carve out' those components of a change request that would have a negative effect on the market.

Greymouth supports the removal of references to events that trigger the Industry Contingency Plan from the definition of 'Force Majeure Event' (as defined in the MPOC). It considers that it is better to allow the circumstances to determine if a particular event is a 'Force Majeure Event'.

Greymouth does not support the proposed changes to the Prudential Requirements for a range of reasons. Essentially, Greymouth believes that the changes decrease the commercial risk for MDL, but increase the cost to those Shippers and Welded Parties without acceptable credit ratings. It also considers the Prudential Requirements are more stringent than necessary for most circumstances, given they are based on maximum risk conditions. Greymouth believes any changes to the Prudential Requirements should only be made as a result of negotiation and agreement between participants, and not by way of the MPOC change process.

4.4 MRP

MRP supports the deletion of references to the National Gas Outage Contingency Plan. It questions why MDL did not replace the references with references to the Gas Governance (Critical Contingency Management) Regulations 2008 but does not consider that this issue warrants rejection of the April Change Request in its entirety.

MRP supports all other changes proposed.

4.5 Vector

Vector fully supports the proposed changes.

Table 2 Summary of opposing submissions

Proposed change and rationale	Submitter	Reason for submitter's opposition
Information on MDL IX (section 4)		
Sections 4.1 and 4.3 changed to provide: • more transparency on Operational Imbalance, Running Operational Imbalance and Scheduled Quantities at each Welded Point. All would be visible to all parties, not just each Welded Party. • Hourly Scheduled Quantities at each Welded Point. • Quantities of balancing gas purchased and traded under sections 12.11 and 12.17.	Greymouth	Does not believe that changes will improve parties' ability to balance (as MDL claim). Consider change is purely commercial and adds no value.
Prudential Requirements (section 20)		
Section 20.3(b), which changes the criteria for an acceptable credit rating for a Shipper or Welded Party, and Section 20.4(b), which changes the criteria for an acceptable credit rating for a third party security provider.	Contact	Considers that a party having the minimum acceptable credit rating that is subject to negative credit watch is not necessarily a higher risk. Also, if a party does have poor credit, MDL can review the situation through the 'reasonable grounds' provision already in the MPOC. Contact suggest aligning MPOC provisions with section 14.3 of the VTC.
All section 20 changes	Greymouth	• Prudential Requirements reflect discussion at development of MPOC. • Any change affects balance of risk and should be reflected in price. • Pipeline users who don't have an acceptable credit rating will have incremental costs but no incremental benefit. • The need to hold additional Prudential Requirements will be a significant barrier to new entrants. • Additional costs will eventually be passed to end users.

Proposed change and rationale	Submitter	Reason for submitter’s opposition
		Funding will be diverted from exploration. • The proposal is not a competitive market arrangement. • Prudential Requirements are based on maximum charges, and will therefore be higher than needed most of the time. • The change needs to be agreed, not imposed.
Consequential changes and minor amendments		
Delete the references to the National Gas Outage Contingency Plan	MRP	Suggests that references to the National Gas Outage Contingency Plan should have been replaced with references to the Gas Governance (Critical Contingency Management) Regulations 2008, rather than being deleted. However, does not believe that this is sufficient reason to reject the Change Request.

5 Process concerns

Gas Industry Co considers it appropriate to address certain 'fundamental process concerns' raised by Greymouth before proceeding with any analysis of the April Change Request.

5.1 Conflict of interest

Greymouth expressed concern that Gas Industry Co may have a conflict of interest if it is a Shipper under a current interconnection agreement with MDL.

In response, Gas Industry Co notes that the interconnection agreement entered into between MDL and Gas Industry Co (for the purposes of the now discontinued wholesale gas market) expired on December 27, 2010 and is no longer in effect.

Accordingly, there is no need to further address Greymouth's concerns of a conflict of interest.

5.2 Absence of 'Effective and Appropriate Considerations'

Greymouth was also concerned that the analysis by Gas Industry Co of the April Change Request, and the decision whether or not to recommend it, is not qualified by effective and appropriate considerations (to the extent that the proposed amendments relate to commercial arrangements).

Gas Industry Co has considered Greymouth's concerns, but rejects them for the following reasons:

- Gas Industry Co does not agree with the distinction drawn between 'market' and 'commercial' rule changes by Greymouth. Any change to MPOC is likely to have consequences that can be characterised as 'commercial'.
- The mere fact that a rule change has commercial consequences does not mean that the factors usually considered by Gas Industry Co are inappropriate or irrelevant. In particular, Gas Industry Co notes that the objectives of section 43ZN of the Gas Act (and other factors that may be considered by Gas Industry Co, such as transparency) are broad in application. Not all objectives will be relevant for every proposed rule change. But generally, it is to be expected that a number of them will be relevant, and will provide an appropriate basis for considering a rule change. Indeed, in the current case, Gas Industry Co notes that Greymouth's own submission relates Greymouth's view of the likely effects of the rule change to several of the statutory objectives.

- Gas Industry Co also notes that it is MPOC itself that appoints Gas Industry Co to its role in relation to change requests. If MPOC participants had considered that (or at some future time, took the view that):
  - some changes to MPOC should require unanimous approval by MPOC participants; and/or
  - that there were certain types of changes for which Gas Industry Co's co-regulatory approach would not be appropriate;

Gas Industry Co would expect this to be provided for in MPOC.

5.3 'Net Benefit' Test

Greymouth's submission also raised the concern that changes that may have a negative effect on the market can be bundled with other changes so that the overall net effect of a suite of changes is positive. Greymouth considers that Gas Industry Co should develop a policy to allow it to reject such a change request in total, or at least to 'carve out' any component that has a negative effect.

Gas Industry Co acknowledges the concerns raised by Greymouth in respect of 'bundled' change requests that contain changes that have both a positive and negative impact on market operation. In an attempt to avoid circumstances of the type described by Greymouth (i.e. where an undesirable change is effected as part of a suite of changes which are otherwise desirable and result in a net benefit for the market), Gas Industry Co promotes and encourages change requests which deal with a set of discrete or closely related issues. This allows for easier analysis and lowers the chance that one unacceptable aspect of the request can cause the whole request to be rejected, or that an undesirable change will be approved as part of a suite of otherwise desirable changes.

As a final general comment, Gas Industry Co notes the ability of participants to propose changes to the rule change provisions of MPOC if they have concerns about the current process.

6 Gas Industry Co analysis

6.1 General considerations

Gas Industry Co has carried out an analysis of the April Change Request, which is summarised in this section of the draft recommendation.

Gas Industry Co considers that the changes proposed by the April Change Request:

- are consistent with current arrangements (including dealings between MDL and users of the Maui Pipeline, and with bi-lateral contracts (TSAs and ICAs)); and
- are consistent with, and give effect to, the objectives in both the Gas Act and the Government Policy Statement on Gas Governance (GPS).

6.2 Consideration of Government objectives

Gas Industry Co considers that the April Change Request is consistent with the objectives of the Gas Act and GPS. While the changes have a neutral impact in relation to many of the objectives, Gas Industry Co considers there is an overall positive impact as regards the objectives to:

- ensure that gas is delivered to existing and new customers in a safe, efficient and reliable manner; and
- ensure that risks relating to security of supply, including transport arrangements, are properly and efficiently managed by all parties.

6.3 Information on MDL IX

The submissions made by Contact, EDNZ, MRP and Vector raise no objection to the proposed amendments in respect of the provision of information on MDL IX. Only one participant, Greymouth, raised an objection in respect of the proposed changes.

Contact's submission expressly endorses the changes designed to increase information disclosure in real time which will, in Contact's view, 'aid parties in making informed decisions in respect to balancing'.

Greymouth opposes the changes in sections 4.1 and 4.3 of the MPOC, on the basis that the proposed changes will not make parties better placed to balance (contrary to the position asserted by MDL).

Greymouth argues that parties already have access to the information necessary to complete balancing. In Greymouth's view, the proposed changes to the information disclosure regime are ‘purely commercial and will add no value’.

The major effect of the change is to require MDL to make information that is currently only available to each Welded Party, available to all participants in the public area of OATIS. Gas Industry Co supports proposals to increase the level of transparency and the availability of information across the market. On an asset such as the transmission pipeline, where the actions of one party can affect the service to others, Gas Industry Co considers that the presumption should be that all information is made available unless there are compelling reasons for maintaining confidentiality.

While Gas Industry Co agrees with Greymouth that the information will not significantly improve the ability of individual pipeline users to balance, the fact that other users will (as a result of the changes) have enhanced visibility on the imbalance of others who share the pipeline is likely to influence better balancing behaviour.

Gas Industry Co notes that the proposed changes impose no additional costs or compliance obligations on participants. Gas Industry Co has not identified any other detriments that would arise as a result of the proposed change.

On this basis, while the improvement in balancing behaviour may not be large, Gas Industry Co considers that there is overall benefit in the proposed changes.

6.4 Prudential Requirements

The submissions made by EDNZ, MRP and Vector raise no objection to the proposed amendments to the Prudential Requirements. Two participants, Greymouth and Contact, raised issues in respect of the proposed changes.

Greymouth argues that the proposed changes to the Prudential Requirements are inconsistent with the statutory objectives, claiming that the changes will:

- result in a significant barrier to entry for a new entrant, thus adding a barrier to competition contrary to section 43ZN(b)(ii) of the Gas Act;
- result in additional costs of financing the increased Prudential Requirements, which will eventually be passed onto end-users, resulting in increased upward pressure on gas costs and prices contrary to section 43ZN(b)(iv) of the Gas Act; and
- create a non-competitive market arrangement, contrary to section 43ZN(b)(i) of the Gas Act.

Greymouth also claims that the changes to the Prudential Requirements will direct money away from exploration, contrary to a ‘drive by the government to encourage more exploration’.

Having considered Greymouth's objections, Gas Industry Co reaches different conclusions:

- There is no evidence to suggest that the prudential requirements imposed under the VTC (on which the changes proposed to the MPOC are based) have created, or enhanced, a barrier to entry or competition. Instead, the prudential requirements established by the VTC have been accepted as reasonable by parties to the VTC. Gas Industry Co does not consider the imposition of similar Cash Deposit arrangements in MPOC will create any barrier to entry.
- Gas Industry Co believes that the large majority of market participants will incur no additional costs as a result of the proposed changes. To the extent that any individual participant does face increased costs, Gas Industry Co considers that such costs are not so significant as to:
  - materially impact participant behaviour (and certainly not to the detriment of exploration activities);
  - impact on overall gas prices; or
  - affect the competitive dynamics of the market.

Gas Industry Co agrees with the stance taken by Vector (in its submission) in supporting the transmission system operator's right to have reasonable prudential arrangements in place to address actual credit risk. Although there may not have been any instance to date where the current Prudential Requirements have seen costs transferred from a 'causer' to MDL (and therefore through to MPOC participants), Gas Industry Co considers that allocation of the risk to the 'causer' (and the avoidance of cost socialisation) is preferable and, on an overall basis, enhances the efficiency and reliability of the arrangements. Gas Industry Co considers this benefit outweighs the costs that may be incurred by any existing or future participant providing a Cash Deposit or third party security.

While Contact agrees with the majority of the changes proposed to the Prudential Requirements, it does not agree with the proposed changes to sections 20.3(b) and 20.4(b) (in respect of credit ratings), or the rationale given by MDL in support of them. Contact argues that a party having the minimum acceptable credit rating that is subject to negative credit watch is not necessarily a higher risk, but in any event the current wording provides for a way to deal with that risk through the existing reference to 'reasonable grounds', which would (where applicable) entitle MDL to review the party's position anyway.

Contact's submission argues that the correct amendment would be to align the relevant sections of the MPOC with their counterparts in the VTC (in the same way this has been done with section 20.6 of the MPOC, proposed to be aligned with section 14.5(b) of the VTC). This would involve the credit ratings moving from Baa2 to Baa3, BBB to BBB-, and include B (Fitch).

Gas Industry Co does agree with Contact that the change to the credit rating provisions goes beyond the removal of ambiguity, and represents a substantive (albeit relatively minor) change to the credit rating provisions. Gas Industry Co also notes that MDL has indicated it has never determined that a credit rating subject to negative watch was insufficient for the purposes of clause 20, and required alternative security.

Gas Industry Co accepts the desirability of alignment and consistency between the MPOC and the VTC, and notes the difference between the proposed credit ratings for the MPOC and those contained in the VTC. However, Gas Industry Co has considered other analogous examples and notes that the credit ratings proposed for inclusion in the MPOC sit within the range of reasonably expected levels (e.g. the credit ratings are more stringent than those provided for by the VTC, but less so than those provided for in the Electricity Code). On that basis, Gas Industry Co considers the proposed amendments to be reasonable. When considered against the statutory objectives, Gas Industry Co considers the change in the credit rating provisions to be neutral. Certainly there is no detriment that impacts Gas Industry Co's view that, in total, the changes to the Prudential Requirements are positive.

6.5 Consequential changes and minor amendments

The consequential amendments proposed by the April Change Request include two new definitions in section 1 to reflect the changes proposed to the Prudential Requirements.

Greymouth's submission notes that it does not support the inclusion of a definition of 'Highest Month' on the basis it does not support the other changes to the Prudential Requirements. Greymouth also claims that the definition 'does not pertain to a time period but a dollar value and it is therefore confusing and misleading'.

Gas Industry Co considers these definitions necessary to give effect to the proposed amendments to the Prudential Requirements, and consistent with the analysis above, Gas Industry Co supports the proposed changes.

The April Change Request also proposes the deletion of all references to the National Gas Outage Contingency Plan. The Plan has since been replaced by the Gas Governance (Critical Contingency Management) Regulations 2009. MRP's submission queried whether references to the Plan should be replaced with references to the Regulations, rather than deleted altogether.

Gas Industry Co supports the approach taken in the April Change Request on the basis outlined by Greymouth – namely that not all critical contingencies lead to force majeure cover and the remaining wording does not preclude a critical contingency being a Force Majeure Event if it reasonably is.

The other minor amendments proposed correct errors in the MPOC, and clarify the application (and underlying intent) of the different provisions.

On the basis outlined, Gas Industry Co supports the consequential changes and minor amendments proposed by the April Change Request.

6.6 Overall evaluation

Overall, Gas Industry Co considers the changes proposed by the April Change Request will provide a net benefit.

7 Draft recommendation

Gas Industry Co supports the April Change Request.

Gas Industry Co intends to issue this draft recommendation and await any further submissions before compiling a final recommendation. Submissions on this Draft Recommendation are due by **5pm, Tuesday 28 June, 2011**.