



Final Recommendation:
14 December 2011
VTC Change Request
Appeal

Date issued: 15 June 2012





About Gas Industry Co.

Gas Industry Co is the gas industry body and co-regulator under the Gas Act. Its role is to:

- develop arrangements, including regulations where appropriate, which improve:
 - the operation of gas markets;
 - access to infrastructure; and
 - consumer outcomes;
- develop these arrangements with the principal objective to ensure that gas is delivered to existing and new customers in a safe, efficient, reliable, fair and environmentally sustainable manner; and
- oversee compliance with, and review such arrangements.

Gas Industry Co is required to have regard to the Government's policy objectives for the gas sector, and to report on the achievement of those objectives and on the state of the New Zealand gas industry.

Gas Industry Co's corporate strategy is to 'optimise the contribution of gas to New Zealand'.

Executive summary

Vector Limited (Vector) proposed a change to the Vector Transmission Code (VTC) on 16 November 2011 that did not receive the 75 percent support from Shippers necessary for it to be adopted. Vector appealed to Gas Industry Co, in its Vector Transmission Code (VTC) appeals body role, to have the change request allowed (pursuant to section 25.6 of the VTC). Gas Industry Co issued a draft recommendation in May 2012 that did not support the change request. Four submissions were received on that draft recommendation. None of the submissions challenged the draft recommendation's analysis or conclusions, or introduced any new material for consideration.

Final Recommendation

Gas Industry Co confirms its draft recommendation not to support the change request.

We thank all those who have provided submissions in the course of our consideration of the change request.

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Introduction

1.1 Purpose

This paper presents a final recommendation on the Vector Transmission Code (VTC) Change Request Appeal submitted by Vector Limited (Vector) on 14 December 2011 (the appeal).

The appeal and other relevant papers, including Gas Industry Co's draft recommendation and submissions, can be found at <http://gasindustry.co.nz/work-programme/vtc-change-request-appeal-14-december-2011-invoicing>.

1.2 Background

Gas Industry Co's role under the VTC

Under the VTC, any party can request a variation or modification to, or waiver from, any provision of the VTC. Section 25 of the VTC sets out a process for considering such change requests, which includes compulsory consultation with all shippers on Vector's transmission system. Under section 25.5(c)(i) of the VTC, Vector and 75 percent of all shippers who respond must consent to a change request for the change to be made to the VTC. Once that process is complete, certain parties may appeal the outcome whether or not the change request was successful. For example, a party who voted against a change request that was successful may appeal that outcome and vice versa.

Gas Industry Co is tasked with independently reviewing and making a recommendation on change request appeals. Following consultation, Gas Industry Co must make a final recommendation 'supporting or not supporting the Change Request or finding that Vector has or has not validly withheld consent'¹.

In consultation with its Shippers, Vector developed a process for considering change request appeals under the VTC. Gas Industry Co and Vector have incorporated that process into a Memorandum of Understanding (MoU). The MoU sets out in detail the process that Gas Industry Co follows when considering appeals. A copy of that MoU is available on Gas Industry Co's website:

http://gasindustry.co.nz/sites/default/files/publications/Memorandum_of_Understanding_with_Vector.pdf

¹ VTC Section 25.7.

When making its recommendation on an appeal, the MoU requires Gas Industry Co to have regard to the objectives specified in section 43ZN of the Gas Act 1992 (the Gas Act) and the objectives specified in the Government Policy Statement on Gas Governance (GPS). The combined principal objectives for Gas Industry Co are to ensure that gas is delivered to existing and new customers in a safe, efficient, fair, reliable, and environmentally sustainable manner.

Gas Industry Co's final recommendation is binding on the parties to the VTC, but not if Vector has withheld its consent and the change would result in Vector incurring capital expenditure or operating expenses². Even then, if another party is prepared to cover the cost, or Gas Industry Co regulates to recover the cost, then Vector is obliged to make the change.

Current appeal

On 14 December 2011, Gas Industry Co received an appeal from Vector. The appeal relates to a change request initiated by Vector and notified to shippers by Vector on 16 November 2011 titled 'VTC Change Request: Invoicing'.

Broadly, the change request proposed introducing VTC changes related to:

- peaking;
- corrections;
- prudential requirements;
- Shipper insolvency: unpaid fees; and
- invoicing.

Of the seven shippers who responded to the change request, one consented and six did not. Clause 25.5(c) of the VTC requires the consent of Vector and 75 percent of all shippers who respond to a change request before the change can be made. This threshold was not met and Vector appealed to Gas Industry Co to seek its support to have the change allowed.

On 21 December 2011 Gas Industry Co requested some additional information from Vector to assist our processing of the Change Request Appeal. This information was provided on 27 January 2012 and on 3 February Gas Industry Co posted all the relevant documents to its website and called for submissions on the appeal.

Submissions on the appeal closed on 22 March 2012. Submissions were received from:

- Genesis Energy;

² VTC section 25.5(b)(i) and (ii).

- Mighty River Power; and
- Nova Energy.

Draft Recommendation and submissions

Having considered the change request and submissions, Gas Industry Co issued a draft recommendation on 4 May 2012 (Draft Recommendation: 14 December 2011 VTC Change Request Appeal). Briefly, the analysis indicated that the proposal would bring improvements in relation to corrections and invoicing; be neutral in respect of prudential requirements; and be detrimental in respect of peaking and shipper insolvency. Gas Industry Co is required to make a single recommendation on the proposed change, and cannot separate or otherwise materially change it. Accordingly, given the wide scope of the change request, Gas Industry Co concluded that it was prudent not to support it.

Submissions on the draft recommendation closed on 28 May 2012. Submissions were received from:

- Contact Energy;
- Genesis Energy;
- Maui Development Limited; and
- Mighty River Power.

Contact Energy supports the draft recommendation. In relation to peaking, it notes that the possibility of a seven-fold increase in peaking costs, suggested by Vector, gives more weight to Gas Industry's rejection of the socialising of these costs. In relation to Shipper insolvency, it strongly supports the conclusion that the risk of insolvency is best managed by Vector. Contact also considers that there was no good reason to change the current VTC mechanism for dealing with disputed invoices.

Genesis Energy agrees with the draft recommendation not to support the change request. In particular it welcomes the analysis leading to the view that the re-allocation of unpaid balancing charges of insolvent retailers would not encourage efficient risk management. It also considers that concern over the breadth of the proposed change is justified and hopes that airing that concern will lead to more focused change requests.

Maui Development Limited's (MDL) submission only sought to clarify one matter. The Draft Recommendation refers to Vector's view that it '...collects balancing costs on behalf of MDL' (Draft Recommendation, section 3.4), and MDL considers that this could mislead a casual reader. MDL notes that it does not require Vector to recover or collect anything on MDL's behalf; MDL simply invoices balancing charges that Vector incurs as a Welded Party under the Maui Pipeline Operating Code (MPOC).

Mighty River Power Limited agrees with the draft recommendation not to support the change request.

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Final Recommendation

Since no new matters were raised in submissions on the draft recommendation, Gas Industry Co confirms its draft recommendation not to support the change request.

We thank all those who have provided submissions in the course of our consideration of the change request.

