



5 October 2009 MPOC Change Request: Final Recommendation

December 2009





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.

Authorship

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Introduction

Section 29 of the Maui Pipeline Operating Code (MPOC) assigns Gas Industry Co a role in respect of any proposed amendment to the MPOC (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 Maui Development Limited (MDL) supporting the change request.

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 (if necessary), 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.

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Current change request and process

On 5 October 2009, Gas Industry Co received a Change Request from MDL (October Change Request). This Change Request was in response to Gas Industry Co engaging MDL to assess the feasibility of establishing and operating two Notional Welded Points on the Maui Pipeline that would function as a gas 'Trading Hub' for the wholesale gas market in New Zealand. MDL prepared a set of amendments to the MPOC that it considered would be necessary to accommodate the Trading Hub Receipt Point and Trading Hub Delivery Point.

After receiving the October Change Request, Gas Industry Co followed the process in the MOU for dealing with MPOC Change Requests. Gas Industry Co posted the October Change Request on its website on 7 October 2009 and sought submissions. Submissions were received from four parties. After having considered those submissions, Gas Industry Co published a Draft Recommendation in support of the change. Three submissions were received on the Draft Recommendation. All three supported Gas Industry Co's decision to recommend the change.

The purpose of this paper is to set out our Final Recommendation. This paper summarises the October Change Request, the submissions received, and Gas Industry Co's analysis. For further information, including a copy of the October Change Request and a copy of submissions, please refer to the work programme section of our website at www.gasindustry.co.nz.

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Draft recommendation

On 19 November 2009, after having considered submissions on the October Change Request, Gas Industry Co published its Draft Recommendation in support of the proposed amendments. A summary of the analysis and conclusions of that paper is set out below.

Analysis

In its analysis of the proposed changes, Gas Industry Co considered the following:

- whether they were consistent with current arrangements and Government objectives; and
- feedback on the proposed changes received from submitters.

Consistency with current arrangements and Government objectives.

Gas Industry Co believed the proposed amendments to be:

- consistent with current arrangements (including dealings between MDL and its users of the Maui Pipeline, and with bi-lateral contracts (Transmission Services Agreements (TSAs) and Interconnection Agreements (ICAs)); and
- consistent with Government objectives in both the Gas Act 1992 (the Gas Act) and Government Policy Statement on Gas Governance (GPS)¹.

Consideration of submissions

Submissions on the October Change Request were received from:

- Contact Energy Limited (Contact);
- Genesis Power Limited, trading as Genesis Energy (Genesis);
- Mighty River Power Limited (MRP); and

¹ See p13 of the Draft Recommendation for the complete analysis.

- Vector Gas Limited (Vector).

Genesis supported the Change Request and Vector noted that its support for the change was based on the passing of a consequential amendment to the Vector Transmission Code (VTC).

In general, MRP supported the Change Request but raised several issues regarding the provisions proposed regarding the suspension of ICAs. It felt that proposed section 22.13 was too broad and if MDL were to suspend a Welded Party's ICA it should provide the party with reasons for doing so in a notice and allow that party 30 days to resolve the issue. If this did not occur, MRP's view was that the Welded Party should be able to access some form of disputes resolution.

MRP also believes that, in the future, longer term contractual arrangements may be operated through the Notional Welded Point, therefore if MDL were to exercise its right to suspend operations, it should not apply to pre-existing contractual arrangements for deliveries and receipts at the Notional Welded Point.

In its response, Gas Industry Co referred to section 4.3 of the October Change Request which states:

MDL does not know all of the implications that the Notional Welded Points may have on pipeline operations and management costs. Accordingly, MDL needs to have a very broad right to suspend the Notional Point Welded Party's ICD if the operation of the Notional Welded Points is impacting on the pipeline at all (or is likely to do so).

We noted that the Trading Hub was new and untested and that, because of this, it would be preferable for MDL to have a broad right of suspension to ensure the arrangements do not compromise the safe delivery of gas to end consumers.

It is also our view that, once the arrangements 'bed-down' and the consequences of the Trading Hub become more certain, the provisions for suspension rights should be revisited so that they are consistent with provisions in section 22.1 of the MPOC for suspending a physical Welded Party's ICA or TSA.

In relation to MRP's concern regarding pre-existing long-term contractual arrangements for deliveries and receipts, we note that the development of the Trading Hub and all the supporting Gas Industry Co governance documents have been primarily premised on the short-term trading of gas, therefore we did not consider this to be an immediate concern.

Contact asked for two clarifications regarding the proposed amendments:

- whether MDL will become a Notional Welded Party; and
- how the Notional Welded Party will recover the costs associated with an end of day cash-out.

Gas Industry Co noted that for the Trading Hub market trial, Gas Industry Co will be the Notional Welded Party. In relation to the recover of costs associated with an end-of day cash-out, we indicated that all potential traders, including Contact, had been supplied with Gas Industry Co's proposed governance documents. One of those documents was a Participant Variance Agreement (PVA) that outlines the approach to recovering cash-outs for Operational Imbalances (OI) at the Trading Hub. A PVA is between a Notional Point Welded Party and a participant of the Trading System who transports gas to or from the Trading Hub Welded Points. It gives effect to the participant's obligations to pay for variances between its Approved Nominations on OATIS and its actual quantities of gas purchased and sold by trades executed on a Trading System. Therefore, any OI at the Trading Hub Welded Point would have associated Participant Variances in which the Notional Point Welded Party would recover its costs by cashing out all participants who have a variance.

Conclusion

After having analysed the proposed amendments and submissions received, Gas Industry Co's Draft Recommendation was to support the October Change Request. However, we also noted that once the arrangements 'bed-down', further changes such as those suggested by MRP in its submission should be considered by MDL.

4 Submissions

Gas Industry Co received three submissions on the October Change Request Draft Recommendation. Submissions were received from:

- Genesis;
- MRP; and
- Vector.

Set out below is a brief summary of each submission. For a copy of the submissions please refer to the 'MPOC Change Request 5 October 2009' work programme on Gas Industry Co's website www.gasindustry.co.nz.

Genesis

Genesis supports the October Change Request Draft Recommendation.

MRP

MRP accepts Gas Industry Co's position on the issues it raised in its submission of 28 October 2008 on the October Change Request and therefore supports Gas Industry Co's Draft Recommendation.

Vector

In its submission on the October Change Request dated 28 October 2009, Vector noted that its support for the change was conditional based on consequential VTC changes, resulting from the October Change Request being approved. Vector has notified that its shippers have agreed to the proposed changes. As a consequence, Vector's consent is no longer conditional and it supports the October Change Request.

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Gas Industry Co analysis

Gas Industry Co notes that all three submissions received supported Gas Industry Co's Draft Recommendation in favour of the amendments proposed by MDL comprising the October Change Request.

We also note that MRP was satisfied with Gas Industry Co's response to concerns it raised regarding MDL's broad rights to suspend a Welded Party's ICA.

As a result, we believe our Draft Recommendation to support the change should be made final.

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Final recommendation

Gas Industry Co supports the October Change Request but notes that, once the arrangements 'bed-down', further changes such as those suggested by MRP in its submission of 28 October 2009, should be considered by MDL.

Attached is a marked up version of the MPOC showing the changes necessary to implement the recommendation.