



Draft

Draft Recommendation
on the MPOC Change
Request proposed by MDL
in May 2008

Date issued: July 2008
Submissions close: 28 August 2008





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 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

This paper was prepared by Ian Wilson

Submissions close: 28 August 2008

Send to: submissions@gasindustry.co.nz

Enquiries: Ian Wilson
ian.wilson@gasindustry.co.nz
04 472 1800

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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). The role involves Gas Industry Co carrying out consultation on the Change Request with the gas industry and determining whether or not to support the Change Request. A Change Request will only proceed 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 this 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.

The 'Gas Industry Co Analysis' section of this paper sets out in brief the reasons for this draft recommendation. In accordance with clause 2.4(a) of the MoU, Gas Industry Co's analysis of the issues under consideration does not include a cost-benefit analysis as 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.

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Current Change Request and Process to Date

On 21 May 2008, Gas Industry Co received a Change Request from MDL dated 8 May 2008 (May 2008 Change Request). The May 2008 Change Request set out a series of amendments to MPOC which MDL has advised it considers to be relatively minor in nature and which are aimed at improving MPOC. MDL has also advised that it considers that the amendments in the Change Request will not adversely interfere with parties' existing rights and obligations contained under MPOC.

Following receipt of the Change Request, Gas Industry Co has followed the process for dealing with Change Requests contained in the MoU. Gas Industry Co posted the May 2008 Change Request on its website on 26 May 2008 and sought submissions. Submissions were received from three parties.

Gas Industry Co has now considered the submissions it received, and the purpose of this paper is to set out Gas Industry Co's draft recommendation. This paper sets out the details of the proposed Change Request and the submissions on that request. For further information including a copy of the May 2008 Change Request and copies of the submissions received, please refer to Gas Industry Co's website at www.gasindustry.co.nz.

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Next Steps

Gas Industry Co invites MDL, parties to MPOC and submitters from the first round of consultation to make submissions on the draft recommendation.

Parties who wish to make submissions on Gas Industry Co's draft recommendation are invited to respond by 5:00 pm on 28 August 2008. Please note that submissions received after those dates may not be able to be considered.

Gas Industry Co's preference is to receive submissions in electronic form (Microsoft Word format or PDF) with 'Submission on MPOC Change Request' in the subject header to submissions@gasindustry.co.nz. A hard copy would also be appreciated and should be posted to:

Ian Wilson
Gas Industry Co, Level 9, State Insurance Tower
1 Willis Street,
PO Box 10-646
Wellington
Tel: +64 4 474 2462
Fax: +64 4 472 1801

Gas Industry Co will acknowledge receipt of all submissions electronically. Please contact Ian Wilson if you do not receive electronic acknowledgement of your submission within two business days.

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Changes Proposed by MDL

On 21 May 2008, Gas Industry Co received a Change Request from MDL. MDL advised that it considers the changes requested to be relatively minor in nature and to be aimed at improving MPOC in its current form. MDL prepared its Change Request in accordance with the standard 'recommendation request form' available on Gas Industry Co's website.

Incentives Pool

MDL has requested that the words 'by MDL' in the definition of 'Incentives Pool' be removed. The current definition of 'Incentives Pool' is:

Incentives Pool means the pool of money held on trust by MDL and administered by the Incentives Pool Trustee, into which all Incentives Pool debits are to be paid and out of which Incentive Pool claims are to be paid.

MDL requests the removal of the words 'by MDL' as it considers them to be confusing. This is because the Commercial Operator is the Incentives Pool Trustee and all other references in MPOC to the Incentives Pool describe obligations of the Incentives Pool Trustee.

Early Open Access

MDL has requested that section 2A of MPOC, which relates solely to Early Open Access, be removed in full. This is because the Early Open Access period has passed and these sections are now spent.

Intra-Day Nomination Deadlines

MDL has requested that footnote 3 in section 4.1 which relates to proposed Intra-Day Nomination Deadlines is deleted. This is because the reference is no longer applicable and could lead to unnecessary confusion about the Intra-Day Nomination Deadlines.

Shipper Information

MDL has requested that the table under section 4.2 titled 'Information Restricted to Each Welded Party on the MDL IX' is amended by adding another row, as follows:

Information	Frequency of Posting
Nominated Quantities that have been confirmed by Welded Parties	One hour before the deadline for MDL to post the applicable Approved Nomination

MDL states that this change aligns with MDL's current practice.

Provisional and Change Provisional Nomination Deadlines

MDL has requested that the deadlines for Shippers to submit their Nominated Quantities during the Provisional and Change Provisional Cycles in sections 8.8 and 8.11 be extended from 2.00 pm to 4.00 pm. MDL notes that a consequential change will also be required to section 8.9. MDL considers that this amendment will allow more time for Shippers to make decisions in relation to their nominations and provide greater accuracy while at the same time allowing shippers to continue submitting their Nominated Quantities by 2.00 pm if they wish to do so.

Intra-Day Cycle Nominations

MDL has requested that the word 'confirmed' is deleted from section 8.16 and replaced with 'approved'. MDL considers that this proposed amendment will ensure that section 8.16 is consistent with the Approved Nominations terminology throughout MPOC. Welded Parties confirm nominations and MDL approves nominations.

Typographical Errors

MDL has requested changes to correct what it considers to be typographical errors. These typographical errors are as follows:

- change the reference to 'stationby' so as to read 'station by' in the 4th line of section 12.5;
- replace the words 'nomintions' and 'accordnace' with 'nominations' and 'accordance' in section 18.1(b);
- delete the word 'the' before 'MDL' in the third line of section 18.5;
- replace the word 'so' with the word 'though' in the penultimate section 23.3(a)(2);
- correction of the numbering for paragraph 3 in Schedule 1 is required; and
- replace the word 'personal' with the word 'personnel' at the end of paragraph 5.1(a)(v) of Schedule 4.

Confidentiality

MDL has requested that section 24.1 which relates to ring fencing in the confidentiality section be changed as follows:

- a new subclause be added between the existing (a) and (b) which reads as follows:
 - (b) Technical functions for the Maui Pipeline are contracted to the Technical Operator;
- the existing subclause (c) be amended as follows to include the Technical Operator and Incentives Pool Trustee:

- (d) The Commercial Operator, System Operator, Technical Operator, Balancing Agent and Incentives Pool Trustee operate at arms length and separate from the Maui Mining Companies in accordance with the provisions set out in paragraph 8 of Schedule 4;
- the existing subclause (d) be amended as follows to include the Balancing Agent, System Operator and Incentives Pool Trustee:
 - (e) If, the Commercial Operator, System Operator, Technical Operator, Balancing Agent and Incentives Pool Trustee each comply with the provisions set out in Schedule 4.

MDL considers that it is an oversight that section 24.1 does not state that the Technical Operator functions for the Maui Pipeline are contracted to the Technical Operator. The proposed inclusion of the new section 24.1(b) (see above) is to address this oversight.

MDL has further requested that "System Operator" and "Incentives Pool Trustee" in the definition of "Open Access Personnel" are included in paragraph 2 of the Confidentiality Protocol in Schedule 4 as each are privy to confidential information (in the case of the System Operator, on a daily basis).

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Submissions Received

Gas Industry Co received three submissions on the May 2008 Change Request. Submissions were received from MDL and Mighty River Power supporting the Change Request. Vector made submissions on the proposed amendments relating to the deadlines for submitting Nominated Quantities during the Provisional and Change Provisional Cycles and the confidentiality provisions.

For copies of the submissions received please refer to Gas Industry Co's website at www.gasindustry.co.nz.

Provisional and Change Provisional Nomination Deadlines

Vector submitted that the change in the deadlines from 2.00 pm to 4.00 pm requires a change to the Open Access Transmission Information System (OATIS) and therefore requires testing. While Vector believes the change is relatively minor, Vector considers the change to OATIS needs to be agreed between Vector and MDL, tested and then implemented prior to the change taking effect in MPOC.

Confidentiality

MDL proposed an amendment to paragraph 24.1 to include a new 24.1(b) which states 'technical functions for the Maui Pipeline are contracted to a Technical Operator'. Vector submitted that the intent of this proposal reflects the current position. However, Vector is concerned that the existing 24.1(a) which reads 'operator and scheduling functions for the Maui Pipeline are contracted to a System Operator' and the new 24.1(b) when read together could be interpreted to suggest that the Technical Operator does not and cannot 'operate' the Maui Pipeline. Vector notes that the Technical Operator is in fact charged with the physical operation of the Maui Pipeline. Vector proposed two solutions to deal with this potential interpretation, either:

- the words 'operator and' be removed from section 24.1(a) in addition to the inclusion of MDL's suggested 24.1(b); or
- MDL's suggested 24.1(b) is amended to read 'operator and Technical functions for the Maui Pipeline are contracted to the Technical Operator'.

Vector prefers the first option from a drafting perspective.

Vector suggested that MDL's proposed amendment to the existing 24.1(c) ((d) in the MDL submission) is extended to remove what it considers to be an inconsistency between section 24.1 and paragraph 8

of Schedule 4. This inconsistency is that section 24.1 requires arms length operations from the Maui Mining Companies whereas paragraph 8 requires arms length operations from Maui Development Limited. Vector submits that the separation in 24.1(c) needs to be from both Maui Development Limited and the Maui Mining Companies to remove this inconsistency.

Vector noted the service provision contract between Vector and MDL needs to be amended to support the proposed changes to section 24.1.

Vector supported the inclusion of the System Operator and Incentives Pool Trustee in the definition of Open Access Personnel in paragraph 2 of Schedule 4. Vector again noted that the service provision contract between Vector and MDL requires amendment to support this change.

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Gas Industry Co Analysis

General Considerations

Gas Industry Co generally supports the amendments proposed in the May 2008 Change Request as the changes improve the readability and ease of understanding of MPOC. MDL has advised that the more substantive changes (excluding typographical errors or changes to reduce inconsistency or ambiguity) are requested to reflect current practice, and Gas Industry Co received no submissions to the contrary. Accordingly, Gas Industry Co accepts that these changes are to reflect current practice and supports these changes as they improve the overall transparency of the open access regime.

Gas Industry Co accepts that the changes are relatively minor and will not adversely interfere with parties' existing rights and obligations under MPOC.

Gas Industry Co has had regard to the objectives specified in section 43ZN of the Gas Act in its analysis, and believes that its support for the amendments is consistent with those objectives.

Incentives Pool

Gas Industry Co supports the deletion of 'by MDL' in the definition of 'Incentives Pool' as the money is held in trust by the Incentives Pool Trustee not MDL.

Early Open Access

Gas Industry Co supports the removal of section 2A in full as the Early Open Access period has passed and it can see no reason for continuing to include this section in MPOC.

Intra Day Nomination Deadlines

Gas Industry Co supports the removal of footnote 3 in section 4.1 relating to the proposed Intra-Day Nomination Deadlines as the reference is no longer applicable.

Shipper Information

Gas Industry Co supports the amendment of the table under section 4.2 by adding a row as described in the change request. MDL has advised that this change reflects current practice and Gas Industry Co received no submissions to the contrary. Accordingly, Gas Industry Co accepts that these changes are

to reflect current practice and supports these changes as they improve the overall transparency of the open access regime.

Provisional and Change Provisional Nomination Deadlines

Gas Industry Co supports the extension of the deadlines for Shippers to submit their Nominated Quantities during the Provisional and Change Provisional Cycles, subject to the change to MPOC not coming into effect until the required change to the OATIS system has been successfully made and any testing procedures are completed as part of the September maintenance release.

MDL has advised that this change reflects current practice and Gas Industry Co received no submissions to the contrary. Accordingly, Gas Industry Co supports the extension of the deadlines on the basis that it aligns with current practice but does not require Shippers to change their current processes for submitting their Nominated Quantities if they do not wish to do so. Gas Industry Co also understands that a change in the OATIS system will be required. This change is minor and has been scheduled for September maintenance release. The cost implications of this change should also therefore be minor.

Intra Day Cycle Confirmations

MDL has requested the deletion of the word 'confirmed' in section 8.16 and the replacement with the word 'approved'. Gas Industry Co notes that the word 'confirmed' appears twice in section 8.16, once in 8.16(b) and once in 8.16(c). The reference in 8.16(b) relates to confirmation by a Welded Party, whereas the reference in 8.16(c) relates to confirmation of Approved Nominations. Based on the mark-up of MPOC provided by MDL, Gas Industry Co understands MDL is only seeking to change the wording in section 8.16(c).

Gas Industry Co supports the deletion of the word 'confirmed' in section 8.16(c) and the replacement with the word 'approved'. This is because the amendment is consistent with terminology already used throughout MPOC that MDL approves nominations.

For the avoidance of doubt, Gas Industry Co would not support the deletion of the word 'confirmed' in section 8.16(b) and the replacement with the word 'approved'. This is because the amendment is not consistent with terminology already used throughout MPOC that Welded Parties confirm nominations. Based on the mark-up of MPOC provided by MDL, Gas Industry Co does not consider that MDL intended to request the change in respect of section 8.16(b).

Typographical Errors

Gas Industry Co supports the amendment of all the typographical errors.

Confidentiality

Gas Industry Co supports MDL's proposed amendments to section 24.1 and paragraph 2.1 of Schedule 4 to ensure that MPOC reflects the current practice and clarifies the position of each operator and MDL with respect to ring fencing.

MDL has advised that these changes reflect current practice and are supported by Vector.

Gas Industry Co agrees with Vector's suggested wording for section 24.1(a). However, Gas Industry Co does not agree that section 24.1(d) (was (c) in the original document) needs to include a reference to MDL to be consistent with the reference to paragraph 8 of Schedule 4.

Gas Industry Co notes that the service provision contract amendments are a matter between MDL and Vector. Gas Industry Co understands that the costs of the amendments to MPOC which affect the service provision contract are not significant and accordingly Gas Industry Co sees no reason not to support the changes. Gas Industry Co understands that Vector will be approaching MDL to ensure the service provision contract is amended accordingly.

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Draft recommendation

In respect of the May 2008 Change Request, Gas Industry Co supports:

- the extension of deadlines for Shippers to submit Nominated Quantities from 2.00 pm to 4.00 pm subject to this change not coming into effect until the appropriate changes are made to OATIS;
- the proposed changes to section 24.1 and paragraph 2.1 of Schedule 4 of MPOC subject to the adoption of the further change to section 24.1(a) suggested by Vector; and
- all other changes proposed.

The supported changes are set out in the attached draft amended copy of MPOC.

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