



Final Recommendation  
on the MPOC Change  
Request proposed by MDL  
on 21 May 2008

Date issued: October 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

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# 1

## Introduction

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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 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](http://www.gasindustry.co.nz).

The purpose of this paper is to make a final recommendation to MDL in respect of a Change Request proposed by MDL on 21 May 2008.

# 2 Process

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The process followed by Gas Industry Co in consulting on and considering the Change Request was as follows:

- |                |  |
|----------------|--|
| 21 May 2008    | Gas Industry Co received the Change Request from MDL.  |
| 26 May 2008    | As MDL considered the Change Request to be relatively minor, Gas Industry Co asked if potential submitters would object to Gas Industry Co issuing a draft determination on the Change Request without an initial consultation.                        |
| 18 June 2008   | Following receipt of advice from one party who considered that the Change Request had some contentious elements, Gas Industry Co decided to follow the full consultation process set out in the MoU, and called for submissions on the Change Request. |
| 7 July 2008    | Close of submissions on Change Request. Submissions were received from: <ul style="list-style-type: none"><li>• MDL;</li><li>• Mighty River Power; and</li><li>• Vector.</li></ul>   |
| 7 August 2008  | Gas Industry Co released its draft recommendation on the Change Request and called for submissions.  |
| 28 August 2008 | Close of submissions on draft recommendation. Submissions were received from: <ul style="list-style-type: none"><li>• Vector.</li></ul>  |



# 3

## Draft Recommendation

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Gas Industry Co's draft recommendation supported:

- 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.

These changes were set out in a draft amended copy of MPOC available on Gas Industry Co's website.

# 4 Submissions Received

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Before discussing submissions on Gas Industry Co's draft recommendation, it is helpful to recall the content of submissions received in the first round of consultation (closed on 7 July 2008). Submissions on the Change Request were received from Vector, MDL and Mighty River Power. Vector expressed some concerns with the proposals, while MDL and Mighty River Power both supported the Change Request. In the absence of submissions from other parties potentially affected by the changes, Gas Industry Co assumed that these parties had no difficulties with the Change Request.

The second round of consultation (closed 28 August 2008) called for submissions on Gas Industry Co's draft recommendation on the Change Request. Only one submission was received from Vector. Since that submission is quite short, the full text is attached as Appendix A for convenience.

In summary, the Vector submission notes that:

- a plan to test the proposed change to the Provisional and Changed Provisional nomination deadlines from 2.00 pm to 4.00 pm in the OATIS system is in place; and
- the costs of implementing changes to ensure that the System Operator complies with the provisions of Schedule 4 (Confidentiality Protocols) were 'significant' and would be passed on to MDL.

In relation to the proposed change in the Provisional and Changed Provisional nomination deadlines from 2.00 pm to 4.00 pm, Vector's earlier (7 July 2008) submission had noted that this change would require a change to the Open Access Transmission Information System (OATIS) and therefore required testing. While Vector believed the change to be relatively minor, it considered the change to OATIS would need to be agreed between Vector and MDL, tested and then implemented prior to the change taking effect in MPOC. From Vector's recent (28 August 2008) submission, Gas Industry Co notes that arrangements are now in place to test and implement the change.

In relation to the proposed change to make the System Operator subject to the confidentiality protocols, Vector's earlier (7 July 2008) submission supported the inclusion of the System Operator in the definition of Open Access Personnel in paragraph 2 of Schedule 4. However Vector noted that the System Operator service provider contract between Vector and MDL required amendment to support this change. In its draft determination, Gas Industry Co had assumed the cost of this change would be

minimal, based on MDL's advice. Vector's recent (28 August 2008) submission notes that it considers these costs to be 'significant'.

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## Gas Industry Co Analysis

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With respect to Vector's new submission that the costs of implementing changes to ensure that the System Operator complies with the provisions of Schedule 4 (Confidentiality Protocols) will be 'significant' and will be passed on to MDL, Gas Industry Co has had to consider whether the terms of MDL's service provider contract is a matter which should be considered by Gas Industry Co in its MPOC role.

MPOC offers little guidance on which matters should be taken into account by Gas Industry Co in considering a Change Request. It could be argued that Gas Industry Co need not consider the matters set out in section 29.4(b), since these have been specifically identified as matters which MDL can consider, and which may be grounds for it withholding consent to a Change Request. These grounds relate to where a Change Request would:

- require MDL to incur capital expenditure;
- require MDL to incur operating expenses or costs that can not be recovered;
- materially affect MDL's business or tariffs, or the business of an interconnected transmission pipeline;
- affect arrangements related to Maui Legacy Contracts; or
- materially adversely affect the compatibility of interconnected pipeline access regimes.

None of these apply to the costs of the System Operator service provider contract. Although the increased cost of that contract will be operating expenses which MDL will recover through its tariffs, Gas Industry Co understands that the increase in costs will not materially affect those tariffs.<sup>1</sup>

The MoU requires Gas Industry Co to have regard to the objectives in section 43ZN of the Gas Act when undertaking its MPOC role. Gas Industry Co considers this extends its consideration to matters such as the cost of service.

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<sup>1</sup> From enquiries made by Gas Industry Co, it is understood that the increase being sought by Vector would amount to a fraction of a percent increase in Tarriff 2, and has yet to be negotiated with MDL.

With regard to the application of MPOC confidentiality protocols to the System Operator and Incentives Pool Trustee (proposed amendment 11 of the Change Request), Gas Industry Co agrees with MDL's analysis that the proposed amendment is consistent with:

- 11(b)(i) dealings between the Applicant and users of the Maui Pipeline being transparent, commercial, at arm's length and non preferential as between MDL and users of the Maui Pipeline;

While MDL may have incorrectly assumed that the amendment had no cost consequences, Gas Industry Co considers this to be a secondary consideration. There are certain base requirements for fair access and Gas Industry Co considers that the protection of Confidential Information, and the provision of compliance and breach procedures in the MPOC Schedule 4 confidentiality protocols, are such base requirements.

Gas Industry Co has discussed the cost of providing the service informally with the MDL Commercial Operator and has been advised that it is still to be negotiated, and will be subject to the same level of scrutiny as other service provider costs.

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## Final recommendation

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In accordance with section 29.4(a) of MPOC, Gas Industry Co recommends:

- 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 changes proposed by MDL 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 marked in the attached copy of MPOC; and
- all other changes proposed and marked up in the attached copy of MPOC.

# **Appendix A Vector submission on Draft Recommendation**



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28 August 2008

Dear Ian

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

The Gas Industry Co issued a Draft Recommendation on the MPOC Change Request proposed by MDL in May 2008 earlier this month (the "Draft Determination") and called for submissions. Vector welcomes the opportunity to submit on the Draft Recommendation and sets out its comments below:

*Provisional and Changed Provisional Nomination Deadlines*

In our initial submission dated July 2008 we noted that this proposal required a change to the OATIS information system and as a result, testing of the system. A plan for the testing is in place and it is expected that if this goes well this change will be able to be implemented within the 30 Day period following the GIC's final determination.

*Confidentiality*

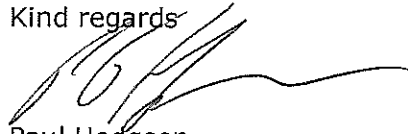
For clarity, we'd appreciate the GIC stipulating which of Vector's suggested amendments to section 24.1(a) is to be adopted – we proffered two solutions.

Vector has contacted MDL regarding the requisite changes to the service provision contract to effect these amendments to the confidentiality obligations. We note that the GIC has described the costs involved as "not significant". Vector has now priced the change from a service provider perspective, considers the costs involved to be significant and expects MDL to cover them.



Please do not hesitate to call me if you have any questions.

Kind regards

A handwritten signature in black ink, appearing to be 'PH', with a long horizontal flourish extending to the right.

Paul Hodgson

**Divisional Manager Gas Transportation**