

Memorandum of Understanding

Gas Industry Company Limited

Vector Gas Limited

This memorandum of understanding dated [] 2008, is made between:

Gas Industry Company Limited (*Gas Industry Co*); and

Vector Gas Limited (*Vector*).

Article I. Purpose

This memorandum of understanding records Gas Industry Co's and Vector's mutual understandings about:

- the principles and process which Gas Industry Co will apply in performing its role as appeals body under section 25 of the Vector Transmission Code (the "VTC");
- how and when Gas Industry Co may request Vector or a Shipper to contribute to costs Gas Industry Co has incurred, or expects to incur, in performing the roles under section 25 of the VTC.

1. Definitions

In this memorandum of understanding, except where the context otherwise requires:

- a. *Change Request* means a change request under section 25.4 of the VTC;
- b. *Commerce Act* means the Commerce Act 1986, as amended or replaced;
- c. *Gas Act* means the Gas Act 1992, as amended or replaced;
- d. *Gas Industry Co* means Gas Industry Company Limited;
- e. *MoU* means *this Memorandum of Understanding*;
- f. *Vector* means Vector Gas Limited, as owner of the transmission system and provider of transmission services;
- g. *VTC* means the Vector Transmission Code posted on OATIS on 18 March 2008, as amended from time to time; and
- h. Terms defined in, or for the purposes of, the VTC have the same meanings in this memorandum of understanding.

2. General principles

2.1 Any of the following people may lodge an appeal to Gas Industry Co to seek to have a Change Request allowed or not allowed (as the case may be):

- (a) a Shipper who considers that Vector has invalidly withheld consent for the relevant Change Request;
- (b) a Shipper who responded but did not give consent to the relevant Change Request;
- (c) a Shipper who did give consent to the relevant Change Request where the relevant change was not made;
- (d) Vector,

and each shall be known as an “applicant” for the purposes of this MoU.

2.2 On lodging an appeal to Gas Industry Co, the applicant must provide Gas Industry Co with full particulars as to its reasons for lodging the appeal.

2.3 Gas Industry Co is willing to undertake the role of appeals body on the terms and conditions set out in this memorandum of understanding. In performing this role, Gas Industry Co shall have regard to the objectives specified in section 43ZN of the Gas Act and the objectives in the Government Policy Statement on Gas Governance.

2.4 On receiving an appeal Gas Industry Co may recommend to Vector that the appeal not be considered valid because it is vexatious. In all other circumstances Gas Industry Co shall follow the process set out in Attachment 1 to:

- (a) prepare an analysis of the issues under consideration (which may include a cost-benefit analysis);
 - (b) make that analysis available to Vector and all parties to the VTC and all industry participants known to it whom Gas Industry Co believes will be affected by the appeal for comment;
 - (c) take any such comments into account as part of its decision-making process; and
 - (d) make a written recommendation supporting or not supporting the Change Request, which shall be final and binding in accordance with section 25.7 of the VTC.
- 2.5 Except as provided in this paragraph 2.5, paragraphs 2.6, 5, 6 and 7, this memorandum of understanding does not, and is not intended to, create legally binding obligations or supersede any legal, contractual or other obligation of either Gas Industry Co or Vector.
- 2.6 Notwithstanding paragraph 2.5, Gas Industry Co will not depart from the processes contemplated by this MOU without first consulting with Vector and Shippers. This paragraph 2.6 is intended to create legally binding obligations.
- 2.7 Gas Industry Co and Vector shall post a copy of this memorandum of understanding on their respective websites as soon as it comes into effect.

3. Gas Industry Co Process, Information Needs and Costs

- 3.1 Attachment 1 sets out the process which Gas Industry Co shall follow to determine whether a Change Request should be supported or not be supported.
- 3.2 The applicant and Vector shall each make available to Gas Industry Co all of the information which Gas Industry Co considers is necessary for its analysis of the matters under consideration, providing that information is available to the applicant or Vector (as applicable).
- 3.3 Gas Industry Co will meet all costs incurred in the performance of its role of appeals body under the VTC which are recoverable by Gas Industry Co. However, Gas Industry Co reserves the right at any time to require the applicant to pay some, or all, of the costs it incurs, or expects to incur, in the performance of its role as appeals body under the VTC. In such a case, Gas Industry Co is not obliged to proceed unless and until the applicant has paid, or (at Gas Industry Co's option) agreed to pay, such costs.
- 3.4 Gas Industry Co shall conduct the consultation process set out in Attachment 1 in respect of an appeal where:
- (a) Gas Industry Co has received an appeal, in accordance with section 25.6 of the VTC, seeking to have a Change Request allowed or not allowed;
 - (b) the applicant and Vector have provided Gas Industry Co with all of the information requested by Gas Industry Co under paragraph 3.2; and (there is no requirement for reasonableness in para 3.2 nor should there be); and

- (c) the applicant and Gas Industry Co have agreed payment arrangements if required by Gas Industry Co under paragraph 3.3.

3.5 After the end of the consultation process in respect of the appeal, Gas Industry Co will issue a written recommendation supporting or not supporting the Change Request.

4. Commerce Act and other relevant law

4.1 Gas Industry Co does not become a party to the VTC, or to any arrangement or understanding that includes the VTC, by entering into this memorandum of understanding or by performing a role or function specified in the VTC.

4.2 Every recommendation by Gas Industry Co supporting or not supporting a Change Request or finding that Vector has or has not validly withheld consent under section 25.5(b) of the VTC is made and given on the basis that Gas Industry Co makes no representation and gives no assurance that the matters to which its recommendation relates comply with the Commerce Act or any other law.

5. Confidentiality

5.1 Gas Industry Co will assume that no information provided to it pursuant to this memorandum of understanding is confidential unless the provider of the information expressly identifies it as confidential.

5.2 Where the provider of information identifies information as confidential, Gas Industry Co will keep such information confidential and not disclose it to any third party, except if:

- (a) Gas Industry Co is required by law to disclose the information;
- (b) the information is already public knowledge or becomes public knowledge otherwise than by Gas Industry Co's own disclosure in breach of this memorandum of understanding;
- (c) the provider of the information consents to the disclosure; or
- (d) Gas Industry Co considers that the information is essential or material to the decision to be made by Gas Industry Co, provided that Gas Industry Co is reasonably satisfied that the disclosure of the information;
 - (i) will not prejudice unreasonably the commercial position of the provider of the information; and
 - (ii) would be unlikely to prejudice the supply of similar information or information from the same source.

5.3 When it has finished with confidential information provided to it, Gas Industry Co shall either:

- (a) return it to the provider or destroy it and certify to the provider that Gas Industry Co has not retained any copies of that information; or

- (b) where Gas Industry Co considers it necessary to retain the information for record-keeping purposes, certify to the provider that Gas Industry Co shall not use the information for any other purpose.

5.4 If Gas Industry Co is obliged by law to disclose any confidential information provided to it, Gas Industry Co shall:

- (a) before disclosing it, give notice to the provider of the information and allow the provider of that information to challenge that legal requirement, including by seeking equitable relief; and
- (b) in any event, disclose the information only to the minimum extent necessary to comply with the relevant legal requirement.

5.5 Notwithstanding paragraph 2.5, this paragraph 5 does, and is intended to, create legal and binding obligations. This paragraph 5 remains in force despite, and after, the termination of this memorandum of understanding.

6. Termination

Either Gas Industry Co or Vector may terminate this memorandum of understanding at any time by giving the other at least 90 days' prior written notice.

7. Payment of costs

7.1 Gas Industry Co shall, after the end of each month in which Gas Industry Co has incurred costs payable by Vector pursuant to paragraph 3.3, render to Vector an invoice stating those costs and expenses, including GST.

7.2 Invoices issued under, and in accordance with, paragraph 7.1, shall be paid by Vector on or about the 20th Business Day of the month following the month of receipt of the invoice by Vector.

- 7.3 If Vector fails to pay the whole or part of an amount in accordance with paragraph 7.2, Vector must pay to Gas Industry Co on demand by Gas Industry Co interest on the outstanding amount (or, if any part of that amount is subject to a genuine dispute, on such part of the outstanding amount that is not subject to a genuine dispute) at a rate equal to Gas Industry Co's borrowing rate plus 2% for the period from the date payment was due to the date it is paid in full.
- 7.4 Notwithstanding paragraph 2.5, this paragraph 7 does, and is intended to, create legal and binding obligations. This paragraph 7 remains in force despite, and after, the termination of this memorandum of understanding with respect to any rights or obligations accrued at that time.

Article II. Execution

Gas Industry Company Limited

by Christine Southey, Chief Executive:

Signature

Vector Gas Limited

by []:

Signature

Attachment 1 – Process for dealing with Proposed Amendments

1. On receiving an appeal under section 25.6 of the VTC, Gas Industry Co shall:
 - (a) advise Vector (if Vector did not lodge the appeal); and
 - (b) request that Vector notify all parties to the VTC of the request.
2. Within 15 Business Days of receiving an appeal, Gas Industry Co shall advise the applicant and Vector:
 - (a) if any additional information is required;
 - (b) what consultation process will be followed; and
 - (c) the approximate time likely to be required to complete the consultation process.
3. When Gas Industry Co has received all information it requested in relation to an appeal, it shall post on the Gas Industry Co website:
 - (a) details of the appeal and all relevant information;
 - (b) a description of the consultation process which Gas Industry Co will follow in order to make a recommendation on the matter;
 - (c) the form in which submissions on the appeal must be made; and
 - (d) the deadline for submissions and, if applicable, counter-submissions in relation to the appeal.
4. Gas Industry Co shall advise the applicant, Vector, all other Shippers and all industry participants known to it whom Gas Industry Co believes will be affected by the appeal, that the above information has been posted on its website, and shall invite submissions and, if applicable, counter-submissions on the appeal.
5. Gas Industry Co shall post on its website all submissions and counter-submissions it receives, subject to paragraph 5 of the memorandum of understanding.
6. Any deletion of information from a submission or counter-submission posted on Gas Industry Co's website shall be clearly marked as such.
7. As soon as practicable after considering submissions and counter-submissions, Gas Industry Co shall prepare a draft recommendation, which it shall copy to the applicant and to Vector (where Vector is not the applicant) and will also post on its website. Gas Industry Co shall also invite the applicant, Vector, all other Shippers and any other submitters to make submissions on the draft recommendation by a specified date.
8. Following receipt of submissions on the draft recommendation, Gas Industry Co shall finalise its recommendation, notify submitters of its final recommendation, and post its final recommendation on its website.

9. If Gas Industry Co considers that its final recommendation is fundamentally different to its draft recommendation, it shall invite further submissions from the applicant, Vector, all other Shippers and any other submitters prior to finalising its recommendations.

Article III. Process for dealing with Appeals

