



19 March 2018

Andrew Knight
CEO
Gas Industry Company Limited
By email

Dear Andrew,

RE: Preliminary Assessment of Gas Transmission Access Code (GTAC)

Greymouth Gas New Zealand Limited (**Greymouth**) supports the conclusion of the GIC's consultation paper, "Preliminary Assessment of Gas Transmission Code" dated 13 February 2018 (the **Paper**) that the GTAC is not materially better than current transmission access arrangements.

Greymouth's answers to the questions in the Paper are set out in the submissions template, attached as an appendix to this submission. In addition, there are four key matters we consider should be priority considerations for the future of the GTAC process, which we set out in this letter.

Greymouth considers fundamental changes need to be made to the framework of the proposed arrangements. For that reason, this submission does not address many areas of the GTAC in detail. This does not mean that we do not continue to hold the same concerns with the GTAC that we have expressed in previous submissions. However, we consider the most constructive approach at this point is a forward-looking, high level focus.

1. A robust process will be critical to a successful code

The GIC's preliminary and final assessments are concerned only with the approval or otherwise of the GTAC and supporting arrangements. However, if the preliminary assessment's conclusion is carried through into the final assessment, then the GTAC will have failed and a new process will need to be established to continue momentum towards a harmonised set of transmission access arrangements.

First Gas has indicated in its industry presentation and in one-on-one stakeholder sessions that it wishes to hear stakeholder views on next steps. It may also be appropriate for the GIC, if it affirms its preliminary assessment, to issue either separately or as part of its final assessment, its view on an appropriate process going forward. GIC's 8 March decision to include cross-submissions on this Paper is a good step to assist in crystallising industry's views on the next steps and the issues.

Greymouth considers industry has the commitment to continue an industry-led process for a second round. However, that commitment is unlikely to survive a second failed process. The GTAC process presented industry with a unique opportunity to develop simplified and streamlined transmission access arrangements under a single pipeline operator. Instead, the process resulted in a complex and incomplete set of arrangements that have fallen at the first hurdle. Industry now has a second chance.

Greymouth considers the following elements will be critical to the success of the new process:

- ***Adaptability*** – First Gas has to be willing to break down the complex structure of the GTAC, simplify it and then rebuild it. This does not necessarily mean starting with a 'blank slate', but that might be the simplest and most efficient approach. The number of different types of fees and charges contained in the GTAC, and the complexity they create, suggest that a return to first principles is the best approach.
- ***A comprehensive approach*** – A significant issue with the GTAC is that the set of arrangements was not complete when the code was submitted to the GIC. Interconnected parties were treated almost as an afterthought. The next stage of the process must focus on the whole of the supply chain and ensure all arrangements are complete and unified before being submitted for assessment.
- ***The process should not be dictated by a deadline*** – one of the reasons the GTAC is below standard is because the process appeared to be rushed in order to meet an arbitrary go-live date of 1 October 2018. While it is entirely appropriate to set a target date, the process should not be dictated by unrealistic deadlines. Industry needs to have enough time not only to develop a robust and resilient code, but also to provide a buffer between finalising the code (and its supporting arrangements) and its go-live date for adequate preparation, including a fully tested IT system.
- ***Quality professional advice*** – The development of an industry-wide code is a significant undertaking and should not be undertaken without independent professional input. This includes advice as to design, which should help improve efficiency and reduce complexity. It also includes professional input into execution, which should reduce the quantity of drafting errors experienced so far in the process.
- ***Independent facilitation*** – the GTAC process may have been more successful if it had been independently facilitated. Facilitation will be increasingly important as the industry moves into a second round of code negotiations. The GIC, with its role as code assessor, is not the proper party to facilitate, but it would be appropriate for it to fund a facilitator and we encourage it to do so.
- ***GIC oversight*** – it may be appropriate for the GIC to indicate when it will step in to effect a regulatory solution. Although it would not be appropriate for it to act as facilitator, it should have some element of oversight to ensure the process does not go off-track again.

2. Oversight of supplementary agreements is needed during transition

The Paper outlines doubts the GIC has about the merits of the GTAC's proposed supplementary agreements. Greymouth considers that supplementary agreements, in particular non-standard pricing, should be fully reviewed before a new code is finalised.

We consider that a change in transmission products and access terms should require a reassessment of the basis and terms on which non-standard pricing terms are offered to end-users – policies that may have been appropriate under current codes may no longer be fit for purpose under the new arrangements. Given that non-standard pricing policies are required to be disclosed to the Commerce Commission, it may be appropriate to include the Commission in this part of the process.

However, there is a further issue concerning supplementary agreements that the Paper does not address. The GTAC (or its replacement) is intended to introduce harmonised transmission access arrangements for the whole gas industry. Allowing parties to contract out of part of those arrangements in advance, as the present draft GTAC does, destroys the integrity of the new code.

3. Commerce Act issues require further scrutiny

The Paper raises two issues under the Commerce Act – the question of whether park and loan revenue is regulated or unregulated, and whether the Ahuroa gas storage facility has the potential to divert revenue from the regulated business into an unregulated related party.

Greymouth considers the importance of these concerns should not be underrated and that they should be subject to close scrutiny during the next stage of the process, including involving the Commission where appropriate. The inclusion in the new code of any fees or other penalty that could result in increased demand for gas storage, park and loan, or other unregulated revenue streams, should be subject to stringent restrictions to avoid the potential for future misuse. This issue was not addressed in First Gas' 8 March open letter regarding Ahuroa.

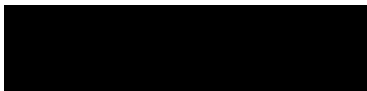
4. Transparent RPO dispute process required

The Paper discusses RPO at various places but understates how the more principled definition will work in practice. We consider that RPO disputes or queries should be assessed by an independent party. These public precedents should result in a more meaningful framework that First Gas and industry participants can use to guide pipeline decisions.

Conclusion

We look forward to using the Paper, submissions, cross-submissions, and the GIC's final assessment as a roadmap for the next steps.

Yours sincerely

A black rectangular box redacting the signature of Chris Boxall.

Chris Boxall
Commercial Manager

Questions

Preliminary Assessment of Gas Transmission Access Code (GTAC)

Submission prepared by: Greymouth Gas New Zealand Limited

QUESTION	COMMENT
<p>Q1: Do you have any comment on our approach to the analysis?</p>	<p>GIC has carried out a high-quality detailed and thorough assessment and analysis of the GTAC and those other parts of the proposed new arrangements that were made available to it by First Gas. We support the conclusion reached that the GTAC is not materially better than the existing access arrangements.</p> <p>We broadly agree with the approach taken. The use of arrows made the assessment clear and easy to understand.</p> <p>We have identified two areas where we consider there may need to be clarity for future assessments:</p> <ul style="list-style-type: none">• The Paper implies that incomplete associated arrangements would not prevent an assessment being undertaken, provided the GIC was satisfied an appropriate process for formalisation of those arrangements was in place (see page 11). Greymouth considers that a proper assessment of access arrangements cannot be made without all associated arrangements being complete and available for assessment (refer to section 22.16(b) of the MPOC and 'is' (present tense)).• Greymouth agrees that not every part of the new access arrangements needs to be materially better than the existing arrangements in order to meet the overall materially better test. We also consider that the materially better test would not usually be met if any parts of the new arrangements were worse for any or all parties.

QUESTION	COMMENT
<p>Q2: Do you agree with our assessment of the GTAC gas transmission products?</p>	<p>Greymouth generally agrees with the assessment of transmission products, however we consider the assessment should have regarded the following matters as contributing to "red" arrows:</p> <ul style="list-style-type: none"> • We do not consider the GIC should have formed a positive view of PR auctions on the basis that the auction rules, which have not yet been published, would be subject to the GTAC change request process, which would safeguard against unfairness. As stated above, for a full and proper assessment of proposed new arrangements, all elements of those arrangements should be complete and available for assessment. • We consider the potential impact on end-users of punitive fees for incorrect nominations has been underestimated. The workload on those end-users whose shipper agreements delegate nomination obligations to them will increase significantly.
<p>Q3: Do you agree with our assessment of the GTAC pricing arrangements?</p>	<p>Greymouth generally agrees with the assessment of pricing arrangements, however we consider the following matters should have contributed to "red" arrows:</p> <ul style="list-style-type: none"> • We consider more weight should have been given to concerns around supplementary agreements, and in particular that the GIC should have taken into account (as a negative factor) the fact that parties are currently able to contract out of the future code through supplementary agreements without any oversight by the GIC. • We consider insufficient weight was given to the penalty nature of ERM charges – which we set out in more detail in the balancing section later in this submission template.
<p>Q4: Do you agree with our assessment of the GTAC energy quantity determination?</p>	<p>Yes.</p>

QUESTION		COMMENT
Q5:	Do you agree with our assessment of the GTAC energy allocation arrangements?	Yes, but we consider there should have been a focus on the role of D+1 and current issues with telemetry. The fall back allocation methodology should also have been assessed and compared to the current methodology.
Q6:	Do you agree with our assessment of the GTAC balancing arrangements?	<p>In general Greymouth agrees with the assessment of balancing arrangements and in particular we agree that a system-wide approach is a substantive improvement. However, the following matters have been underrated in the overall assessment:</p> <ul style="list-style-type: none"> • Barriers to new entry could be posed by both the uncertainty around tolerances, and the liability link to the previous day's position. • We consider GIC has underestimated the impact of tolerances on efficient outcomes (page 50). Even if a shipper has sufficient certainty as to its own DNC position, DNC_{TOTAL} will not be known ahead of time, so it will be unable to assess its tolerance position against the whole system. Further, $LPT_{SHIPPERS}$ (linepack to provide Running Mismatch tolerance) may be changed by First Gas with no notice – the timeframe set out in the GTAC is for publication on OATIS is simply “periodically” – which provides no long-term certainty.
Q7:	Do you agree with our assessment of the GTAC curtailment arrangements?	Yes.
Q8:	Do you agree with our assessment of the GTAC congestion management arrangements?	Yes.
Q9:	Do you agree with our assessment of the GTAC gas quality and odourisation arrangements?	Yes.
Q10:	Do you agree with our assessment of the GTAC governance arrangements?	Yes.

QUESTION	COMMENT
Q11: Do you agree with our top-down analysis?	Yes, for the most part.
Q12: Do you agree with our overall assessment?	<p>We agree with the overall conclusion however we consider the impact of the following matters may have been underrated:</p> <ul style="list-style-type: none"> • The potential for First Gas to divert revenue from the regulated business to an unregulated related party in relation to the Ahuroa gas storage facility. • We consider that there should have been more consideration about the D+1 and/or wash-up agreement, and that previous industry pragmatism and success should not be a substitute for having the completed arrangements to assess as part of the process. • The removal of the MPOC liquidated damages regime which, while rarely used, does provide a good stick that influences behaviour. • We consider that the proposed term is an insufficient return on investment, and that the termination provisions (compared with the MPOC termination which requires a materially better replacement code) are largely absent thus concerning.
Q13: Do you agree that with our analysis of ICAs?	<p>We agree that the lack of provision for interconnected parties is a significant issue with the GTAC. In terms of a future assessment process we consider the following matters will need scrutiny:</p> <ul style="list-style-type: none"> • The fairness of ICA interconnection fees – perhaps there needs to be GIC oversight of this process. • It should be clear that all parties to access arrangements are required to have a TSA and/or ICA, and First Gas' position on this needs to be clarified.

QUESTION		COMMENT
Q14:	Do you agree with our analysis of SAs?	Yes, as far as it goes, but as outlined in our main letter we consider there are additional considerations that should have been taken into account.
Q15:	Do you agree with our analysis of nominations?	No. As outlined earlier, we consider that the impact of increased frequency of nominations on end-users has been underestimated. We do agree that the primary issue is the impact of the overrun/underrun charges themselves.
Q16:	Do you agree with our analysis of daily overrun and underrun charges?	Yes, as far as it goes. We consider that they may pose a barrier to entry to new shippers or incumbent shippers wanting to ship in a new delivery zone. Those shippers would be disadvantaged against a large incumbent shipper who is able to aggregate nominations and demand, therefore incurring proportionately fewer overrun/underrun charges than a new party.
Q17:	Do you agree with our analysis of hourly quantities?	Yes.
Q18:	Do you agree with our analysis of liabilities? In particular, do you have any particular comments on whether the proposed liability arrangements in relation to the injection of Non-Specification Gas better meet the efficiency, reliability and fairness objectives when compared to the MPOC and the VTC?	We agree with the analysis and have no comment to make.
Q19:	Given that the current, tighter, drafting in the MPOC still results in excursions outside of the 42-48 bar gauge range, what is your view of the revised drafting under the GTAC?	This is perhaps a matter of semantics. Despite the 'absolute' requirement in the MPOC, there are some excursions, but provided none of these are due to any failure by the TSO to behave as an RPO or otherwise properly exercise its functions under the MPOC, there is unlikely to be recourse against the TSO. The GTAC wording may simply be an effort to reflect the reality in the drafting. However, the importance of RPO requirements and a liquidated damages regime increases if the TTP requirements are to be relaxed.

QUESTION	COMMENT
<p>Q20: Do you agree that comparing the ERM charges with bid/ask spreads is a sound method for testing the appropriateness of the quantum of those ERM charges? If not, what would be a more appropriate comparator?</p>	<p>No. ERM fees are not the same as emsTP spreads. EmsTP spreads result in a transfer of title, whereas ERM fees do not and are therefore more akin to a penalty.</p> <p>A further, more fundamental, issue with ERM fees is the variability of the D+1 model, which can exacerbate exposure to the penalties. ERM fees do not actually solve the allocation problem, i.e. through the transfer of title.</p> <p>Overall, we consider ERM fees, combined with tightened tolerances, are an unjustified increased constraint on users.</p>
<p>Q21: Do you agree with our analysis of the incentive charge rebates?</p>	<p>Not entirely. The time value of money, the work involved in obtaining rebates, and the risk of shippers not passing on the rebates makes the model worse than the alternative which is that future years' tariffs are changed.</p>

QUESTION	COMMENT
<p>Q22: Do you agree with our analysis of First Gas' discretion?</p>	<p>Generally yes. We consider areas where the exercise of discretion could result in diverting revenue to an unregulated revenue stream (such as Ahuroa) should be subject to increased scrutiny.</p> <p>First Gas' open letter dated 8 March 2018 does not address this issue. While it helpfully explains further background and context, that letter only provides comfort further to section 2.7 of the GTAC relating to treating all Interconnected Parties equally.</p> <p>The letter does not address concerns that First Gas could amend prices or tighten tolerances for all Shippers and Interconnected Parties to have the effect of funnelling business from its regulated pipeline to its unregulated related party business at Ahuroa. This is the issue that needs discussing and safeguarding in the GTAC.</p> <p>First Gas' open letter also raises two further issues:</p> <ul style="list-style-type: none"> • How will First Gas or its related party top up cushion gas from time to time (if this is a theoretical possibility)? In this case, First Gas or its related party may need to purchase and transport gas in which case the query is whether they will be a gas wholesaler or shipper in those circumstances (and not acting as a TSO). • Will First Gas or its related party always provide storage services involving the physical injection and extraction of gas, or is it thinking about doing time or location swaps? If swaps are possible (or not prohibited), then the query also arises as to whether First Gas or its related party will be a gas wholesaler, retailer, producer or shipper in those circumstances (and not acting as a TSO). <p>We encourage First Gas to elaborate on this in its cross-submission, as the GTAC will properly need to manage these matters.</p>
<p>Q23: Do you agree with our analysis of public information disclosure?</p>	<p>Yes.</p>

Additional questions posed by First Gas

QUESTION	COMMENT
<p>How far away from the materially better standard do you think we are? For example, do you think we need to fundamentally re-work the access products and concepts; significantly re-work a few items and adjust a range of other items; adjust a range of items; or adjust a few key items?</p> <p>Q24:</p>	<p>We consider the GTAC is a significant distance from meeting the materially better standard. As outlined in our covering letter, we consider First Gas needs to break down the fundamental framework and rebuild it with reference to first principles.</p>
<p>How long do you think it will take to re-engage and achieve materially better? For example, a similar amount of time as spent so far (August 2016 to November 2017); about half as much time as spent to date; six months; or three months? Do you have any views on an appropriate go-live date for the new code, given the other steps involved (GIC assessment and IT implementation)?</p> <p>Q25:</p>	<p>As outlined in our covering letter, Greymouth considers the process should not be driven by an arbitrary deadline. However, setting a target is useful for maintaining momentum. We consider that a target go-live of 1 October 2019 would be appropriate, and is achievable if First Gas adopts a process that reflects the recommendations we make in our covering letter.</p>

QUESTION	COMMENT
<p>Do you have any preferences on how the process should be run from here on in? For example, in terms of the pathways shown in the decision tree above, should we revise and consult on the GTAC to address the reasons the GIC concluded it is not materially better, should we discontinue the process, or should we start from a blank sheet of paper? Should we use workshops like we have previously; focused work group sessions; one-on-one discussions; or a mix of the above?</p> <p>Q26:</p>	<p>Whether First Gas has a mandate and is committed to adapting matters a lot more than how the process runs from here on in. This assumes that First Gas wants to keep going somehow, and that parties will jointly plan the next steps in a workshop with the end in mind and with regard to the whole supply chain and supporting arrangements.</p> <p>Revising and consulting on the GTAC and starting from a blank sheet of paper are, in our opinion, similar because both have the same objective. The major concern with a blank sheet of paper approach is that in its 8 March 2018 memo, First Gas has said that it is not prepared to lead such an approach due to the amount of rework required. This is disappointing for a number of reasons:</p> <ul style="list-style-type: none"> • The rework should be less work than, and quicker than, revising / consulting on the GTAC (e.g. embedding ICA provisions, and having a flow on demand model should quickly get rid of at least 50% of the issues that the GIC has identified), • First Gas ruling out leading this approach demonstrates that it may not be prepared to wholly adapt the GTAC to address the issues raised by the GIC and submitters – this calls into question how it can get a mandate at all to lead an approach to revise and consult on GTAC changes, and • It suggests that First Gas underestimates how far away from the materially better standard the GTAC is and how much work is required to address this. <p>We think this rules out a process that revises and consults on the GTAC unless i) First Gas can get a mandate (which is harder now that there is evidence that it is not open to first principles thinking), and ii) there is a new independent facilitator to help parties agree on solutions during workshops rather than leaving First Gas to listen but ultimately assert its own position.</p>

QUESTION	COMMENT
	<p>We also think this rules out starting from a blank sheet of paper unless i) there is an independent leader (given the quantum of the work required), and ii) First Gas commits to the process and to first principles thinking. This option is our preference and we encourage First Gas to reconsider its position about leading this pathway.</p> <p>We think the case for a regulated solution still needs to be formally set out and is by no means a clear cut case, particularly when all non-regulatory counterfactuals need to be explored and status quo with incremental changes has not yet been explored in the context of a single owner of the pipeline.</p> <p>We think there is sufficient industry appetite to continue an industry-led approach, and some would argue that we have to keep going now that we have started. That takes us to status quo with incremental changes – basically a re-livening of the successful GITAWG process. This is the best option if the conditions required to progress a GTAC revise / consult or a blank sheet of paper approach are not met. This process would require the support of First Gas (including it being at the table), and maybe its leadership and / or an independent facilitator. The benefit of this approach is that it should consider first principles options and generate specific cases for regulation should parties not be able to generate a negotiated consensus and should a problem be sufficiently problematic so as to justify regulation.</p>