

MEMORANDUM

TO: GTAC Stakeholders
FROM: First Gas
DATE: 15 August 2018
RE: Gas Quality and Liabilities

This memo describes proposed changes to GTAC provisions on gas quality and liabilities to address the findings of the Final Assessment Paper (FAP) following on from the workshop on Wednesday 8 August 2018.

The proposed GTAC drafting changes to the gas quality and liabilities sections of the GTAC and ICAs are provided in appendix 1 of this memo. For ease of reference, a table is provided in this memorandum which summarises the relevant FAP findings, the position proposed by First Gas, and the relevant drafting changes to the GTAC and ICAs to reflect the proposed approach. This material will be discussed in the workshop on 22 August.

Proposed Approach

First Gas acknowledges concerns raised in FAP and in prior industry submissions.

The proposed approach, as discussed in the workshop on 8 August, is to amend the gas quality provisions and liability regime to make them broadly consistent with the approach in existing codes.

First Gas has addressed concerns that it previously sought to change existing responsibilities/liability allocations. It has therefore adopted an approach in the revised GTAC that is consistent with the approach taken in the VTC (which is itself based on the approach taken in the MPOC). First Gas believes this approach is appropriate as the current arrangements are well understood and commonly used in the past (including in ICAs).

As outlined in the workshop, the key changes that have been made from the GTAC submitted to the GIC in December 2017 (and which are discussed further in the table below) include:

- previously proposed subrogation concept is removed;
- deeming parties to be non-RPOs is removed;
- a back to back non-specification gas indemnity has been included;
- the liability caps have been adjusted upward to reflect historical inflation adjustments; and
- consistent approach between GTAC and ICAs (with the GTAC and ICA provisions meshing as appropriate).

The table included in the appendix to the memorandum contains a summary of where in the revised GTAC these changes have been proposed.

Gas quality

First Gas notes that in relation to gas quality issues there are significant improvements made to the existing codes as discussed in the 8 August workshop. These include:

- publication on OATIS of:
 - gas specification events or issues of which First Gas and/or users become aware (see section 12.4 and 12.5 of the GTAC and associated ICA provisions); and
 - findings from demonstrations of gas specification procedures compliance (see section 12.6 and corresponding ICA provisions).
- the express requirement that First Gas install and maintain equipment at each Delivery Point to ensure compliance in relation to dust and compressor oil (see section 12.9 of the GTAC).

First Gas views these changes as responsive to points raised by industry in the workshops, and considers these to be significant improvements for the gas industry as a whole.

Balancing and Peaking Pool/Incentives Pool

It is not proposed to have a BPP or incentives pool under the GTAC. Given these pools are not used in practice, they add no or negligible benefit and are not considered to improve efficiency or fairness of the GTAC as a whole, or the reliability of the transmission system. We believe that other provisions and tools available to us in the GTAC allow us to manage balancing operationally and obviate the need for the BPP or incentives pools.

These include:

- appropriate incentive mechanisms and charges, which have been discussed extensively in workshops. These include:
 - daily overrun and underrun charges;
 - a new peaking regime and associated charges (as discussed in the 10 August workshop);
 - provision for overrun charges and an associated indemnity provision where a shipper overtakes; and
 - an increase in incentive charges where congestion occurs or where a linepack limit is breached;
- a specified TTP regime, which is expressly included in the GTAC and the RP ICA, and which is substantially similar to the existing regime contained in the MPOC (and which addresses the matters previously raised in the FAP);
- curtailment provisions included in each of the GTAC and the ICAs, with the ability for First Gas to issue OFOs to shippers and relevant interconnected parties where appropriate (see sections 9.5 to 9.7). There are also provisions to address the consequences of a relevant party failing to comply with an OFO (see section 9.12);
- development of a balancing and curtailment SOP, which will provide detail as to how First gas intends to implement and address curtailments under the GTAC at an operational level;

- relief from fixed charges otherwise payable by a shipper where it does not receive gas due to the actions of another party resulting in a curtailment under the GTAC (see section 9.13);
- congestion management arrangements, including the ability on a Day for First Gas to issue OFOs to require an overtaking shipper to reduce its offtake if it is taking over its MDQ or MHQ (see section 10.3(b)) – First Gas expects this will be able to be used by it in a directed manner in order to curtail a shipper who is taking over its MDQ/MHQ entitlements to the detriment of other users; and
- the requirement for shipper and interconnected parties, as well as First Gas, to act as RPOs, including the express recognition of the position of the other users of the transmission system given it is a shared use asset.

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First Gas intends to use the code change process to amend incentives where these are not driving the right behaviour. We feel this toolkit allows us to manage balancing operationally.

We welcome further comment on these matters as part of the workshop on 22 August.

FAP Findings	First Gas' proposed approach	Corresponding changes to GTAC / ICAs
<p><u>Interaction between the GTAC (TSAs) and ICAs.</u></p> <p>GTAC s7 requires the liability arrangements in GTAC s16 to be reflected in ICAs. We think that approach does not take into account differences in the obligations that apply to Shippers and Interconnected Parties. Some of the obligations that apply to Interconnected Parties will require exclusions and limits on liability that are different to s16 of the GTAC</p>	<ul style="list-style-type: none"> • Liabilities sections to be set out in full in Schedules 5 and 6 of the GTAC (and therefore will be incorporated in full into each new ICA) • Liabilities section in each new ICA to mirror the liabilities section in the GTAC. Required differences to be recognised as per FAP comments 	<p>GTAC section 16</p> <p>RP ICA and DP ICA sections 16</p> <p>Schedules 5 and 6 of the GTAC, which incorporate RP ICA and DP ICA sections 16</p>
<p><u>GTAC s1.1. definition of “Reasonable and Prudent Operator”</u></p> <p>Reference to “having due consideration to other users of the Transmission System” may increase the scope for dispute give the vagueness of that concept</p>	<ul style="list-style-type: none"> • Retain current RPO definition, but address the comment that the last part of the definition is vague • Specifically refer to other Shippers and Interconnected Parties who use the transmission system to inject, convey or receive gas • Considered appropriate for Shippers and ICA parties to have regard to the position of other Shippers and ICA parties given nature of the system 	<p>RPO definition in each of the GTAC and RP ICA and DP ICA</p>

FAP Findings	First Gas' proposed approach	Corresponding changes to GTAC / ICAs
<p><u>GTAC section 12.11</u></p> <p>Unless it can be shown that First Gas caused gas to become Non-Specification Gas, we think that GTAC s12.11 effectively excludes any liability that First Gas may have for loss that a Shipper suffers in relation to the taking of Non-Specification Gas (whether the RPO standard has been breached or not)</p>	<ul style="list-style-type: none"> • Delete section 12.11 GTAC • Reflect back to back indemnity concept raised by submitters prior to GTAC final assessment • RP ICA parties give indemnity where they inject non-specification gas • First Gas gives indemnity where Shipper takes non-specification gas at a DP (irrespective of whether First Gas is the causer) • Subject to limitations in the liabilities section • Reflects the approach used in the current VTC (which is based off the MPOC approach) 	<p>Former GTAC section 12.11 deleted</p> <p>Refer to GTAC sections 12.2 and 12.10 to 12.14</p> <p>Refer to RP ICA sections 6.1 and 6.6 (which reflect GTAC section 12.2 requirements), and also to DP ICA section 6.</p>
<p><u>GTAC ss16.4 and 16.5 “Capped Liability”</u></p> <p>The liability caps under the GTAC appear to be adopted from the MPOC and the VTC. However, that does not take into account the fact that the caps in the MPOC and VTC have been adjusted for inflation on an annual basis since the commencement of those codes</p>	<ul style="list-style-type: none"> • Starting monetary caps in section 16.4 to be increased to current inflation adjusted levels • \$10m becomes \$12.5m • \$30m becomes \$37.5m • Payments of charges and fees specified in the GTAC not to be the subject of the liability caps 	<p>GTAC sections 16.4 and 16.5</p> <p>RP ICA and DP ICA sections 16.4 and 16.5</p>

FAP Findings	First Gas' proposed approach	Corresponding changes to GTAC / ICAs
<p><u>GTAC s16.2 "Limitation of a Party's Liability"</u></p> <p>This does not carve out liability for the injection of Non-Specification Gas (or other relevant liabilities) from the general exclusion of liability to third parties</p>	<ul style="list-style-type: none"> • Re-instate in section 16.2 of the GTAC the exception for payments by First Gas under the non-specification gas indemnity in section 12 • Same approach as taken in the VTC (which was based off the MPOC approach) 	<p>GTAC section 16.2 – which is substantially the same as the corresponding provisions in the VTC and the MPOC.</p>
<p><u>GTAC s16.12 "Subrogated Claims"</u></p> <p>Concerns as to effectiveness of new provision. In any event, not an improvement on current codes</p>	<ul style="list-style-type: none"> • Section 16.12 deleted in full • Consistent with approach used in VTC and MPOC • First Gas provides shipper indemnity for non-specification gas (irrespective of whether First Gas is the causer) 	<p>Former GTAC section 16.12 deleted (from both GTAC and ICAs)</p>
<p><u>MPOC s14 and s12.4 "Incentives Pool" and VTC s8 "Balancing and Peaking Pool"</u></p> <p>There is no equivalent to the liquidated damages mechanism in the MPOC and the VTC if a Shipper or Welded Party is unable to offtake gas due to the actions of another Shipper or Welded Party. This risk remains under the GTAC, but the equivalent mechanism for a Shipper or Interconnected Party to recover loss under the GTAC is unclear</p>	<ul style="list-style-type: none"> • These pools not used in practice. Add complexity to the codes for no or negligible benefit given not used • Appropriate structures and incentive payments have been (or will be) included in the GTAC after industry discussion • These incentives are increased where there is a breach of a linepack limit which sets an appropriate additional incentive • Clear curtailment and OFO procedures, with ability for First Gas to enforce as required • First Gas considers overall balance of GTAC on this issue is appropriate and use code change processes to amend incentives where these are not driving the right behaviour. 	<p>Refer to comments in cover memorandum.</p>

FAP Findings	First Gas' proposed approach	Corresponding changes to GTAC / ICAs
<p><u>GTAC s16.1 and various references</u></p> <p>There are various references to “<i>reasonable endeavours</i>” and “<i>to the fullest extent practicable</i>” in the context of the obligation to mitigate loss. This looks to be a consistency issue arising from the adoption of the VTC drafting for some provisions, while new drafting has been inserted for others</p>	<ul style="list-style-type: none"> • Use consistent terminology • Base on the current language used in the corresponding provisions of the current codes 	<p>GTAC sections 16.1 and 12.10.</p> <p>RP ICA and DP ICA sections 16.1.</p> <p>Consistent language is intended to be used if and to the extent corresponding language is used elsewhere in the GTAC and ICAs.</p>
<p><u>GTAC ss16.1, 9.12(b), 11.9(b), 12.2, 12.10 and ICAs</u></p> <p>The use of the RPO standard has been modified in the GTAC when compared to the MPOC and the VTC. Under the MPOC and the VTC the need to establish a breach to the standard of an RPO was only avoided in the case of the provisions regarding Non-Specification Gas (which is not the case under the GTAC), not other provisions. We think that exclusions from the need to establish a breach of the RPO standard should be reconsidered.</p> <p>Stakeholders also raised the issue of linking the RPO standard to the behaviour of the TSO, Shippers and IPs in the workshops on 8 August.</p>	<ul style="list-style-type: none"> • Deemed non-RPO concept removed • Specified breaches constitute failure to act as an RPO – precisely the same language as used in MPOC for injection of non-specification gas • Not a broad RPO failure concept – limited to the specific provision concerned (as per MPOC) • To apply to breach of OFO and overflow provisions given seriousness of consequences of breach (HSE, pipeline integrity). Will improve position of First Gas (and indirectly other “innocent” users) to recover from breaching party • Consistent approach adopted in ICAs • The definition of RPO has been amended to include specific reference to First Gas, Shippers and Interconnected Parties 	<p>Refer to RP ICA section 16.17. This reflects the same approach as used in the MPOC.</p> <p>The same formulation is to be used in relation to non-compliance with OFO requirements. This will be reflected in GTAC section 9.12(b), and RP and DP ICAs section 9.10(b).</p> <p>The deemed RPO failure concept will now no longer apply in respect of GTAC section 11.9(b)</p> <p>Former sections GTAC 12.10 and 12.11 have either been removed or modified as outlined above.</p> <p>Also refer to the RPO definition and section 16.1.</p>

**Block 2 Outputs – Gas Quality and Liabilities
Appendix 1 - Proposed GTAC and ICA Amendments**