

GTAC Workshop minutes 8 August 2018
At the offices of Gas Industry Company Limited
Level 8, 95 Customhouse Quay, Wellington

Wednesday 8 August 2018 at 9:00am

Note: these minutes provide a high level record of the position reached and points raised at the workshop to inform First Gas's design of the gas transmission access code (GTAC).

1. Core terms of interconnection

1.1 Position reached

- 1.1.1 Records of meter tests should be a common and essential term (keeping records for 7 years was suggested).

1.2 Points raised

- 1.2.1 First Gas to check section 9.9 of the RP ICA against the Gas Governance (Critical Contingency Management) Regulations (having regard to the fact that the critical contingency operator (CCO) can't instruct a receipt point IP).
- 1.2.2 First Gas to check the consistency of shut-down under the GTAC with the CCO flow profiles (i.e. the profiles should generally apply to provide certainty).
- 1.2.3 First Gas to check the preference and priority between shippers and IPs (i.e. what stops First Gas from discriminating in favour of shippers over IPs?).

2. OFOs/Curtailment

2.1 FAP findings

- 2.1.1 Deemed non RPO for failure to comply with an OFO may be unfair (21) (alongside liabilities workstream)
- 2.1.2 Adverse timing implications of replacing MPOC section 15.2 with option for shippers to request an extra intra-day cycle under GTAC 4.18 (22)

2.2 Points raised

- 2.2.1 First Gas to consider requiring receipt point nominations from shippers/IPs that do not want to have OBAs.
- 2.2.2 First Gas to confirm whether the new IT system will have functionality for producers to auto-accept/auto-reject nominations by contract and nominations cycle.
- 2.2.3 First Gas to consider adding pro forma D+1 data to the information that must be provided under the GTAC.
- 2.2.4 First Gas to consider reducing the timeframes for responding to extra intra-day cycles to 30 minutes (to open) and 30 minutes (to respond). First Gas to confirm whether that fits with its IT system capability.

- 2.2.5 First Gas to consider extending the ability to call extra intra-day cycles to all IPs (not just those with an OBA).
- 2.2.6 First Gas to consider the link between flow to nominations and receipt point nominations made by shippers.
- 2.2.7 First Gas to look at options for communicating OFOs (in its curtailment SOPs).

3. Commerce Act

3.1 Position reached

- 3.1.1 Stakeholders asked Gas Industry Co to circulate the Commerce Commission's published information relating to trade associations.

3.2 Points raised

- 3.2.1 Stakeholders interested in receiving advice on Commerce Act risks should consider the best time to seek such advice.

4. Liabilities Framework

4.1 FAP findings

- 4.1.1 Concerns expressed about subrogated claims provisions (16.12) and exclusion of liability for third party losses in context of non-spec gas (16.2) (184)
- 4.1.2 Inability to take action on behalf of another party and First Gas in relation to the same event
- 4.1.3 GTAC s7 requires the liability arrangements in GTAC s16 to be reflected in ICAs. That approach does not take into account differences in the obligations that apply to shippers and IPs. Some of the obligations that apply to IPs will require exclusions and limits on liability that are different to s16 of the GTAC
- 4.1.4 GTAC s1.1. definition of "Reasonable and Prudent Operator". Reference to "having due consideration to other users of the Transmission System" may increase the scope for dispute, given the vagueness of that concept
- 4.1.5 Unless it can be shown that First Gas caused gas to become Non- Specification Gas, 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)
- 4.1.6 GTAC ss16.4 and 16.5 "Capped Liability". 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
- 4.1.7 GTAC s16.2 "Limitation of a Party's Liability". 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
- 4.1.8 GTAC s16.12 "Subrogated Claims". Concerns as to effectiveness of new provision. In any event, not an improvement on current codes

- 4.1.9 MPOC s14 and s12.4 "Incentives Pool" and VTC s8 "Balancing and Peaking Pool". 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 IP to recover loss under the GTAC is unclear.
- 4.1.10 GTAC s16.1 and various references. There are various references to "reasonable endeavours" and "to the fullest extent practicable" 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
- 4.1.11 GTAC ss16.1, 9.12(b), 11.9(b), 12.2, 12.10 and ICAs. 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 e~~Exclusions from the need to establish a breach of the RPO standard should be reconsidered

4.2 Position reached

- 4.2.1 First Gas to provide detailed drafting of the liability arrangements for discussion at the workshop on 22 and 23 August.

4.3 Points raised

- 4.3.1 First Gas to consider adding First Gas to the definition of an RPO (alongside shippers and IPs)
- 4.3.2 Gas Industry Co to provide further detail regarding its concerns with the "vagueness" of the RPO standard as expressed in the FAP.

5. Associated documents

5.1 Points raised

- 5.1.1 First Gas to consider the inclusion of "developable capacity" in the GTAC as per the MPOC (third party development of the transmission system when First Gas does not want to undertake the development).
- 5.1.2 First Gas to consider the inclusion of a requirement in the GTAC that First Gas always maintain an interconnection policy.

The meeting closed at 3.30pm