

Appendix – Summary of Critique of GTAC Sections

The GIC is to assess the GTAC under s22.16(b) of MPOC. That provision requires GIC to determine whether GTAC and its ancillary arrangements are materially better than the current terms and conditions for access to and use of pipelines (i.e., VTC, MPOC and their ancillary arrangements).

Having regard to that criterion, we set out in this Appendix a summary of our comments on the provisions of sections one to ten of the GTAC that we consider are problematic.

This Appendix is in three parts:

- Part A sets out the provisions that we consider raise the greatest difficulties.
- Part B sets out some of the other provisions that we consider are deficient.
- Part C comments on the core DNC framework and gas quality.

In the interests of brevity, we do not comment in this Appendix on provisions that are neutral compared with, or better than, the current arrangements. We also note that, in the limited time provided for consultation, we have not been able to complete a thorough review of all provisions of the GTAC.

However, we consider that even if the deficiencies in the GTAC are confined to those noted in this Appendix, the inescapable conclusion is that the GTAC in its current form is materially incomplete and worse (and not materially better) than the current terms and conditions for access to and use of pipelines.

Lastly, we will provide a more detailed review of the GTAC provisions if that would assist GIC in its assessment.

Part A – Provisions that are Materially Worse

Definitions

s1.1 – “Running Mismatch Tolerance”

The VTC cross refers to MPOC to determine Running Mismatches. MPOC in turn prescribes tolerances at its Receipt Points. The GTAC has no prescribed tolerances. Instead those tolerances are as determined by First Gas from time to time. This is materially worse for a number of reasons:

- $LPT_{SHIPPERS}$ and LPT_{OBAPS} are unknown quantities, thus it is not able to be assessed at present. Further:
 - o It is subject to change at no notice and at First Gas' sole discretion,
 - o There are no timeframes in Schedule Two (which sets out the information to be published by First Gas from time to time) that govern the timing of its publication,
 - o There is nothing in section 8.5 that dictates how First Gas should split $LPT_{SHIPPERS}$ and LPT_{OBAPS} , and
 - o With First Gas or its related party acquiring AGS, this puts First Gas in a position of conflict vis-à-vis setting the $LPT_{SHIPPERS}$ quantity and encouraging use of park and loan to potentially maximise use of AGS,

- A Shipper will have little prospective certainty on its Running Mismatch Tolerance (which compromises its ability to plan). This is exacerbated by $DNC_{SHIPPER}$ and DNC_{TOTAL} (key inputs in calculating a Shipper's Running Mismatch Tolerance) for the prior day being subject to change in the ID4 and Extra Nomination Cycles which generally occur outside normal working hours, and

- DNC and MQ on a prior day may bear no relationship to DNC or MQ on the actual day, thus the Running Mismatch Tolerance could be disproportionately large or small depending on Shipper, OBA Party or customer operations.

s1.1 – “Transmission System”

The VTC and MPOC have tightly prescribed definitions of the transmission system to which those codes apply. The GTAC definition is much more open-ended and lacks specificity. This causes material workability issues:

- The GTAC definition only refers to the pipeline system, not, for example (quoting the MPOC) 'other items of plant, equipment, fixtures and fittings directly appurtenanced to the pipeline system but excluding any item controlled by a part other than First Gas',

- The breadth of the definition extends the reach of the GTAC to First Gas' distribution systems (i.e., beyond its high pressure backbone) which cannot have been the intention, and
- If First Gas were to purchase or construct other pipeline systems that it owns and operates, then those pipelines could fall under this definition. Query AGS in this context.

s1.1 – “Wash-up”

There is no equivalent in the MPOC. The VTC, as amended by the MBB D+1 Agreement, contains full particulars on wash-ups. The GTAC, per the definition of Wash-up, defers the policy to a future document or puts the methodology at First Gas' discretion. This is materially worse than current arrangements as there is no certainty as to the possible nature or implications of Wash-ups and no transitional arrangements pending the entry into a Wash-up Agreement.

s1.1 – “Wash-up Agreement”

There is no equivalent in the MPOC. The VTC, as amended by the MBB D+1 Agreement, contains full particulars on wash-ups. The definition relates to an agreement to be entered into and is therefore inherently uncertain. Our comments above apply equally here.

Operative provisions

s2.1 - 2.5 – Gas Transmission Capacity

s2.1 to 2.3 of the GTAC narrowly define transmission services as capacity. These provisions require First Gas to be “able to” receive and deliver gas. However, they do not unequivocally state that First Gas must actually transport the gas. This is materially worse than the VTC and MPOC which define all services as transmission services and explicitly require First Gas to transport the gas.

s2.3 of the GTAC also says that First Gas is not required to even be able to receive or make available gas if it is in excess of MDQ and MHQ. The opposite is the case implicitly in the MPOC, and explicitly in s2.3 of the VTC. This is therefore materially worse than the VTC and MPOC.

s2.4 of the GTAC only refers to receiving or supplying that gas to a Shipper – not from or to an interconnected party for a shipper. This is worse than the VTC and MPOC.

s2.5 of the GTAC is worse than the VTC and MPOC because the incentives charges do not sit with the party that has the legal risk in the gas (First Gas). Both the MPOC and VTC properly deal with this point.

s6.10 - 6.11 – Delivery Quantities under the Downstream Reconciliation Rules

This section is not relevant in the MPOC, and is tightly prescribed in the VTC and its supporting arrangements. The proposal in the GTAC is materially worse than the VTC, as:

- The arrangements in section 6.10 and 6.11 rely on an industry agreement that has not yet been drafted (see s6.11(a)). This introduces inherent uncertainty. The application and implications of section 6.11 cannot be ascertained at present,
- There is no certainty that some / all parties will enter into such an agreement – it depends on whether the proposal is better than the counterfactual in s6.11(b), and
- The default position in s6.11(b), which applies in the absence of an industry agreement, is probably going to be materially worse than the current arrangements for some shippers and not for others because all shippers will get pro-rated numbers regardless of whether they or their market segment are generally quite accurate with DNC or not, or supplied with accurate AG1 data or not.

s7.12:7.15 – Interconnection Agreements

This section is similar to the VTC, but materially worse than the MPOC for a number of reasons, including:

- There is very little in the GTAC about Welded Parties, or Interconnected Parties – unlike the MPOC which is built around the concept of Welded Parties (and Shippers),
- There is no policy steer about whether existing Receipt and Delivery Points will be required to have ICAs or not,
- It is unclear whether new ICAs will be supplied to industry for new interconnections if new fields are found,
- Notwithstanding the ICA requirements set out in the GTAC, the terms and conditions of the ICAs have not been debated by industry, nor have they formally been consulted upon by First Gas,
- Target Taranaki Pressure is moved away from the core code provisions into ICAs which gives less weight to the concept, and it is no longer required to be kept as low as practicable (per the MPOC), but is now proposed to just be within the range,
- Further work is required to understand whether or not all the current upstream provisions are materially better than the current arrangements given that those provisions will sit *outside* the GTAC, and
- There is no requirement for First Gas to provide continuity for MPOC Welded Parties and Shippers (which is an explicit requirement of s22.16(a)(i) and (ii) of the MPOC).

s8.5:8.7 – Line Pack Management

In addition to raising points similar to those raised above in relation to Running Mismatch Tolerance, s8.6 seems to imply that First Gas will prioritise the issuing of Low and High Line Pack Notices before it looks to buy or sell balancing gas. This is materially worse than the current arrangements, as First Gas could simply allow Line Pack to move to an extreme to then incentivise shippers to act, only having to buy or sell balancing gas if shippers do not do so.

What First Gas should be doing is trusting shippers and industry that they generally try hard with their primary balancing obligations, then they should buy or sell balancing gas to keep the pipeline in check. In this case, Line Pack Notices would be a tool of last resort to signal problems. Further, First Gas only needs to use reasonable endeavours to take actions to actively manage its pipeline – we think that best endeavours should be required to prevent over-pressure or critical contingency situations.

s8.11:8.14 – Excess Running Mismatch Charges

This section is new in the GTAC. While B2B + ERM could be seen as a package replacement for MBB, here we assess ERM in isolation.

ERM will significantly tighten how shippers balance – which goes against the principle of letting shippers make reasonable use of the pipeline to manage the inherent peaky nature of downstream demand that is not directly controllable by shippers.

ERM has no title transfer and there are punitive ‘penalties’ which are not part of the current arrangements. Shippers are also more likely to pass on the costs to causing and contributing customers. The level of the penalty is high (between \$0.20 / GJ and \$1.00 / GJ) and has no oversight from the GIC.

What also makes us nervous is where daily allocations and Wash-Ups land which could significantly increase short and long term exposure to ERM charges

The ERM add-on to B2B is complex, unnecessary (or way over the top), and materially worse than current arrangements.

Part B – Provisions that are Worse

Definitions

s1.1 – “Daily Nominated Capacity Fee or DNC_{Fee}”

The MPOC’s and VTC’s IT system both publish the relevant fee information. In the absence of the GTAC IT system, there is no written confirmation of the applicable fees. This is worse than the current arrangements at present.

While industry has been supplied with informal / approximate fees, this is technically not the DNC_{Fee} (particularly as it is subject to change), which makes it impossible for GIC to analyse the impact of this with any certainty other than taking an educated guess. This is not very workable for a transitional arrangement.

s1.1 – “Day”

The VTC and MPOC refer to a period of 24 hours and expressly refer to New Zealand standard time, therefore bringing the definition within the exception set out in those Codes’ equivalent to section 1.2(x) of the GTAC. However, the GTAC does not include the express reference to standard time in its definition of day meaning, per section 1.2(x), on two days in the year, the Day, as defined, will either not have ended by one hour, or will double-up with the next day by one hour.

s1.1 – “Distribution Network”

There is no equivalent in the MPOC. The VTC defines this as excluding the Transmission System, whereas the GTAC does not. This is a deficiency in the GTAC for a number of reasons:

- The Transmission System could be a Distribution System if it operates (regularly or just in Critical Contingencies) at less than 20 bar,
- A distribution network, in theory, could convey gas to one customer (not just more than one), and
- To determine whether a Distribution Network is in effect, one needs to consider the design intent of that pipeline system.

s1.1 – “Emergency”

The inclusion of subparagraph (c) creates too low a threshold; there should be significant impairment, otherwise any breach of TTP could technically be an emergency. In any event, it is not clear why this has been included – the focus of the VTC and MPOC in the context of what constitutes an *emergency* is the safety of the system, persons and the environment, not the deliverability of gas.

s1.1 – “High Line Pack Notice” and “Low Line Pack Notice”

The language is not consistent between the definitions and section 8.6 or Schedule 2.

s1.1 – “Interconnection Agreement”

The VTC and MPOC refer generally to valid and existing agreements. However, the GTAC refers to agreements entered into on or after 1 October 2018. This definition would exclude ICAs entered into prior to that date (there may be various ICAs entered into before 1 October 2018 if that is the target start date for the GTAC), which would then be outside the GTAC ICA regime.

s1.1 – “PR Term”

In the absence of the PR Auction rules, there are no principles or processes that govern the term of PRs. The issue is that if PR terms are to extend beyond the term of AG1 / AG2 End-User contracts with Shippers, then that will create competition issue unless PRs are held by those End-Users or there is a mandatory transfer of PRs between Shippers of the End-User switches supplier. The deferral of these points for consideration in the PR Auction rules makes the definition of PR Term unworkable at present.

s1.1 – “Priority Right or PR”

The definition does not work because the operative part of section 3.14 defines PRs at equal to 1 GJ, whereas we know from First Gas workshops that the intention is to scale back entitlement to PRs during Intra-Day Cycles if there are deemed flow issues preventing First Gas from giving full effect to the PRs purchased.

s1.1 – “Running Mismatch”

This definition is similar to that in the VTC and the MPOC. However, there is a workability issue insofar as the definitions pertain to ‘on that Day and all previous Days’. In the absence of codified transitional arrangements in the MPOC, VTC or GTAC relating to this point, it is assumed that the GTAC can only look back to the date of the Code.

s1.1 – “Specific HDQ/DDQ”

There is no equivalent in the VTC and MPOC. In the absence of published values for Specific HDQ/DDQ, it is not possible to assess the fairness of this definition therefore it does not work at present. Schedule Two does require it to be published annually, but it should also be published before and as at the date of the Code.

s1.1 – “Transmission Charges”

There are two charges in the MPOC, five in the GTAC (not including PR charges, which are additional to transmission charges), and six in the VTC. The GTAC is therefore worse than the current arrangements in terms of the sheer quantum of charges. We believed one aim of the GTAC was to simplify access arrangements, and increasing the number of charges that may be levied under those arrangements seems to run counter to that aim.

Operative provisions

s2.6:2.7 – No Preference or Priority

This section is worse than current arrangements because although it requires equal treatment for all Shippers, the GTAC does not include an equivalent to the VTC’s section 2.16 – i.e. a requirement that transmission services be provided *only* to Shippers.

s2.11:2.12 – Reasonable and Prudent Operator Obligations	The GTAC only requires First Gas and shippers (but not interconnected parties) to act as RPO and nor does section 7 make this a requirement of an ICA.
s3.3 – Delivery Zone	<p>Delivery zones are not in the MPOC, and are in the VTC arrangements by precedence. Given that the delivery zones have not been notified in writing (and given that those zones have a big impact on parties' exposure to daily overs / unders risk), this section is worse than current arrangements which are known.</p> <p>Unless there is one big delivery zone, then, due to the daily overs / unders regime in the GTAC, there will be competition issues if new shippers want to enter the market, end-users want to ship their own gas, or existing shippers want to ship to a customer in a new zone because their nominations will not be subject to aggregation and netting off in the same way as established players in those particular markets.</p>
s3.13:3.16 – Priority Rights	It is not possible to properly assess PRs because the terms and conditions are proposed to sit outside the GTAC and have not been made available to industry as yet. Further, the product is poorly designed as mass market retailers who do not hold PRs will not be able to decrease real-time exposure to overruns if their DNC is scaled.
s3.26:3.35 – Agreed Hourly Profiles	AHP is clunky and there are technical issues. For example, s3.32 requires First Gas to offer the most DNC it can, but there is no process available for shippers to accept that. It is also unclear at which points AHPs will apply and what the overall purpose of them is. The management of AHPs will be time consuming.
s4.3 – Delivery Zone Nominations	This is worse than the current arrangements as we expect that more nominations will be required (at about 15 zones?) than at present (at a handful of Balancing and Peaking Pools), and given the likely material increase in changes required to be made to nominations given the existence of the daily overs / unders regime.
s8.16:8.22 – Park and Loan	We consider that the idea of a park and loan system has potential, depending on the particulars. However, given it is a poorly scoped add-on, and given the context of AGS, it must currently be viewed as more of a risk, particularly in the absence of an SOP given park and loan is itself a trade-off between supplying industry with more safe harbour in which to mitigate exposure to ERM charges.
s9.11 – Critical Contingency	This clause allows First Gas to instruct in critical contingencies different to the instructions it receives from the CCO. For example, instructing the ability to take gas to be curtailed, not just demand.

s10.4 – Over Nomination

It is unreasonable for a Shipper to warrant its end-users' requirements if it simply acts as an agent for them for all intents and purposes. Conversely, the clause could be read as requiring Shippers to form a view on the accuracy of end-users' nominations – it is not the job of Shippers to second guess its customers, who are best placed to know how much gas they will use.

Part C – DNC and Gas Quality

Daily Nominated Capacity

We include our critique of DNC as it is fundamental to the GTAC. The analysis is symptomatic of a number of items that are neutral compared to the status quo, with bad items cancelling out good items. For example:

- The ability to book capacity profiled to demand is materially better than current arrangements.
- The requirement to nominate and renominate for that capacity is materially worse than current arrangements for shippers and end-users who may have hundreds of nominations to do each year rather than one at present.
- The use-it-or-lose-it nature of DNC is materially better than having grandfathered rights under the VTC.
- The non-firm nature of DNC (i.e. it is subject to scaling if priority rights are used) is worse than the current firm service offered when reserved capacity is booked.

DNC is a bespoke, unproven model. It has potential, compared to the VTC, but it is complex and has a number of trade-offs. These trade-offs largely cancel each other out.

Gas Quality

We have not carried out a clause-by-clause review of this section yet. However, further to our comments in the covering letter, we believe the following matters should be progressed in parallel with further upstream gas quality compliance:

- 1) An investigation into the adequacy of measurement and reporting of downstream co-mingled delivered gas, including:
 - a. Checking with the Commerce Commission that its regime is not intended to duplicate other legislation, therefore First Gas should invest in measurement and reporting out of its already-approved revenue stream.
 - b. Subject to the above, investigating whether First Gas should invest in measurement and reporting and recover that from industry somehow.
 - c. Raising with MBIE whether legal responsibility for various gas safety matters should rest with First Gas rather than retailers.
- 2) Exploring the GIC's previously tabled point about contractual nexus up and down the supply chain vis-à-vis gas quality events.