



9 August 2017

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Genesis Energy Limited

Dear Ian

MPOC Transition Change Request; Proposed approach to GTAC assessment

Genesis Energy Limited (**Genesis**) welcomes the opportunity to provide a submission to the Gas Industry Company (**GIC**) on First Gas' application to amend the Maui Pipeline Operating Code (**MPOC**) dated 14 July 2017.

We also welcome the opportunity to comment on the GIC's paper "Proposed approach to GTAC assessment" dated 2 August 2017 (**GIC paper**) in the context of considering the change request.

Genesis continues to support moving to a single gas transmission access code (GTAC) and agrees that it is necessary to insert a termination clause into the MPOC to facilitate transition from the two existing codes. We do however have a two-fold concern about supporting the MPOC change request *at this time*:

- We believe it would be imprudent to support the change request, effectively handing over the reins of decision-making, without having yet had the opportunity to review the whole GTAC; and
- We remain unconvinced there is a sufficiently robust process in place to satisfy the substantive condition proposed i.e. the process that sets out who is best placed to determine whether the GTAC is materially better than the status quo.

In the following sections we offer our recommendations on an alternative timeline and process for advancing the MPOC change request - please consider these comments in coming to a decision on the best way forward.

Question marks hang over the GTAC *at this time*

Genesis notes the change request has landed as we approach a critical point in the GTAC design process: the release of the complete draft GTAC for consultation and negotiation. But comments on the change request are sought by 9 August 2017; prior to the 10 August release of code materials for consideration.

We consider this timing to be fundamentally flawed and believe it is extremely difficult to expect industry participants to support a code change request that will provide the green light for the new GTAC, while considerable uncertainty remains over its final design. In addition, without details on cost allocation and the cost of implementation - which we believe is material to understanding how the GTAC will impact on Genesis, our customers and the gas industry as a whole – it is difficult to support the current proposal.

This uncertainty is due to the fact First Gas' views continue to evolve as it consults with industry on all design aspects from access products, through to pricing, balancing and allocation, and IT system readiness¹. Genesis supports and appreciates that First Gas has shown considerable willingness to change its positions as it receives feedback from the industry, but it is this fluidity that makes it difficult – *at this time* – to appreciate all the opportunities and risks of supporting the GTAC.

Genesis returns to the objectives outlined by First Gas in respect of code transition - which aim to ensure a seamless transfer, certainty to all parties, and parties having the ability to influence the outcome – and considers that compelling industry to take a view on the change request without equipping them with the tools they need to make a truly informed decision (i.e. all the facts in front of them) does not meet these objectives.

We have placed emphasis on *at this time* because, as stated above, we agree that the termination clause will be necessary to transition to the GTAC.² We suggest the change request be put to the industry after they have had the opportunity to review the GTAC as a whole and better understand its content and form.

¹ Genesis has expressed concerns in previous submissions in respect of IT systems readiness, questioning whether the timelines proposed are realistic to integrate First Gas' new system with shippers' bespoke systems. We continue to see this as a real concern and are not clear if the explicit reference to IT system readiness in the MPOC change request refers to First Gas' IT systems only, or accounts for shippers' requirements too.

² We note that for the Vector code there is a more immediate need to extend the code, due to its impending expiry. We consider this to be a more straightforward process to follow considering the expiry clause already exists and is not contingent or at all linked to the GTAC.

A robust process is crucial

In Genesis' submissions on code governance and code transition we stressed that a robust governance and decision making framework is crucial to the success of the GTAC.

Having reflected on concerns about the voting franchise³, the changes proposed by First Gas in its information paper dated 7 July 2017 (**First Gas paper**)⁴, and the proposed approach in the GIC paper⁵, we remain convinced that the process we proposed in our code transition submission would be more robust than what has been proposed by First Gas in respect of code transition.

Genesis' alternative proposal:

- Code signatories vote on whether the GTAC should replace the existing codes;
- If a majority of code signatories votes in favour (i.e. 51 per cent or more)⁶, the GTAC goes before the GIC to be assessed according to the requirements of the Gas Act and Government Policy Statement on Gas (**GPS**);
- If the GIC determines the GTAC is better than the status quo, it becomes binding subject to the procedural conditions being met.

It is our firm view that this approach best accounts for the interests of all transmission stakeholders proportionate to the commercial interest they carry, and offers appropriate checks and balances on the incentives of any one party.⁷

Shippers and First Gas, who bear the commercial costs and risks associated with operating on the transmission system, can promote and protect themselves via a vote, while other transmission stakeholders have their interests promoted and protected by the GIC, which can make its assessment with the best interests of the wider stakeholder group in mind.

³ We consider that because any party may become a code signatory, this rebuts the assertion made in the First Gas paper that there could be a perception that existing industry participants have an advantage. We also note that while non-code signatories do not have a vote, as per our alternative proposal, their interests would be promoted and protected by the GIC.

⁴ We would like to note that we appreciate First Gas making a change to its proposal on receiving industry feedback, and looking to incorporate a step for parties to express their support (or otherwise) for adopting the GTAC. We do not consider however this sufficiently addresses our concerns, and hence stand by our proposed alternative process as described above and in our previous submission on code transition.

⁵ We also appreciate the work carried out in the GIC paper, but do not consider this sufficiently addresses our concerns. While there is a step to ask shippers and welded parties if they support the new code, it is currently unclear how that feedback will be sought (i.e. a yes/no indication of support, or substantive submissions) and there is no explicit requirement for the GIC to take any feedback received on board in making its decision.

⁶ In our code transition submission, we recommended a 75 per cent majority of code signatories would be required to vote in favour for the GTAC to pass to the GIC for review. We are comfortable with that majority being reduced to 51 per cent, should that decrease the perceived risk of shipper hold out

⁷ For example, Genesis is driven by what is best for our business and customers. The GIC is driven to have a single code that satisfies the interests of its stakeholders, including the Ministry of Business, Innovation & Employment.

Crucially, this approach allows the 'materially better' threshold to be assessed through both an objective and subjective lens by all parties directly affected by the change. This provides for clear, logical reasoning to meet with an appreciation for the direct, distinct impact the new GTAC will have on different stakeholders, who are each motivated by different drivers.

Genesis considers that each individual vote can be understood to be a subjective representation of an individual's views on whether the GTAC is 'materially better' than the status quo in respect of their interests. These individual votes feed directly into an objective process where the collective vote is what determines whether the GTAC should proceed to the GIC review. The GIC is then better placed should the motion pass – knowing that code signatories support the GTAC – to make its objective, overall assessment against the Gas Act and the GPS as outlined in the GIC paper.

The best way forward

As stated in previous submissions to the GIC and First Gas, we commend the constructive engagement that has been a hallmark of the GTAC development to-date. We believe this has served all stakeholders well and will continue to be crucial as we move further into what we have described as the 'pointy end' of the process. To this end, we appreciate the extension to comment on the MPOC change request, and the shifting of workshop dates following industry feedback.

Genesis is committed to continue working in collaboration with GIC, First Gas and industry colleagues to see this process through to its completion, and for this reason recommends the MPOC change request is deferred until all stakeholders have had the opportunity to comment on the whole GTAC and work through outstanding concerns together.

We also see cause for further consideration of our alternative proposal on who should determine the GTAC is materially better than the status quo. A more robust process will ensure a robust GTAC that endures for years to come.

If you would like to discuss any of these matters further, please contact me by email margie.mccrone@genesisenergy.co.nz or by phone 09 951 9272.

Yours sincerely



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