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Ian Dempster
Gas Industry Company Ltd

By e-mail: info@gasindustry.co.nz

Application for GIC's Recommendation on Proposed Amendments to MPOC

Dear Ian,

We thank Gas Industry Company ("GIC") for the opportunity to comment on First Gas' proposal to insert a termination provision into the Maui Pipeline Operating Code ("MPOC").

Whilst we're generally supportive of First Gas' objectives and the proposed role of GIC in assessing the merits of the Gas Transmission Access Code ("GTAC"), we continue to have concern over the proposed 'substantive condition' for the current 14 July 2017 MPOC Transition Change Request ("TCR"). In short, we do not support the TCR in its current form.

In establishing the 'substantive condition' provision for termination of the MPOC and seeking to prescribe the scope of GIC review, we consider that the proposed terms of reference for GIC are inadequately defined and unduly restrictive. GIC has sought to address such matters through the recent guidance issued by GIC on 2 August 2017 ("Gas Industry Co's proposed approach to GTAC assessment"). However, that guidance has heightened rather than alleviated our concerns as we believe the approach outlined in that guidance is flawed, in particular the hierarchy of objectives. We intend to make further submissions on that guidance shortly which we believe must be taken into account by GIC in making any determination on the TCR.

In order to determine the 'materially better' standard referred to in Section 22.16(b) of the proposed amendment, we consider that GIC's proposed "overall assessment" approach carries with it a real risk of an unfair outcome for particular stakeholders or groups of stakeholders where a key component of GTAC could be materially worse than the status quo but GTAC is still approved by GIC due to perceived offsetting improvements in one or more other components of GTAC. In our view such an outcome would be at odds with the overall policy objective that GIC is required to pursue pursuant to section 43ZO of the Gas Act 1992 as set out in paragraph 9 of the current Government Policy Statement on Gas Governance. We are not suggesting that each and every aspect of GTAC need be materially better, but rather that all key components should be materially better.

Sections 43ZN and 43ZO of the Gas Act 1992 and the provisions of the Gas Policy Statement deal principally with the generalities of governance of gas pipelines. Consequently, we do not believe that reference to those provisions alone provides sufficient guidance without further interpretation

as to how GIC should appropriately consider the specific commercial and operational implications arising from replacement of two existing pipeline codes with a single, substantially different code. While the guidance provided by GIC on 2 August starts to provide much needed detail and clarification, it is incomplete and in our view and as noted above, flawed. Moreover, if and when finalised, we suggest that such guidance be expressly referenced in the TCR.

In addition, we consider that the 'substantive condition' should include a requirement for GIC to determine that:

- All material legitimate concerns of all industry participants have been dealt with in a reasonable and fair manner (and the guidance should be amended to ensure that there is an express opportunity for industry participants to advise GIC of such concerns at the relevant time); and
- The process for the development of the GTAC has been robust and conducted in good faith, with appropriate gas industry consultation.

Yours sincerely



Phil Watson
Methanex New Zealand Ltd