

30 June 2017

Ben Gerritsen
General Manager Commercial and Regulation
First Gas Limited
Wellington

VECTOR LIMITED
101 CARLTON GORE ROAD
PO BOX 99882
AUCKLAND 1149
NEW ZEALAND
+64 9 978 7788 / VECTOR.CO.NZ

Dear Ben

Submission on the GTAC Transition Process

Introduction

1. This is Vector Limited's (Vector) submission on the Information Paper released by First Gas (the Information Paper) on its proposed transition process for the single Gas Transmission Access Code (GTAC), dated 15 June 2017.
2. In our view, the GTAC is a commercial arrangement and the process for its transition should remain so to the extent possible. Our comments below on the fulfilment of substantive conditions for the implementation of the GTAC, and what those conditions should be, reflect this view.
3. We note the Gas Industry Company's (GIC) preference for non-regulatory approaches¹ and share many stakeholders' desire to see an 'industry code', rather than a regulated code or other prescriptive arrangements.
4. No part of this submission is confidential. Vector's contact person for this submission is:

Anna Carrick
Manager Natural Gas Trading
A.Carrick@vector.co.nz
04 803 9044

Determining the fulfilment of substantive conditions for GTAC implementation

Preference for a non-regulatory approach

5. First Gas stated that it has "not incorporated a voting mechanism into the preliminary draft change requests" that would enable the transition from the Maui Pipeline Operating Code and Vector Transmission Code (VTC) to the single GTAC (page 3 of the Information Paper). We are disappointed that First Gas appears to have disregarded the commercial nature of the GTAC and is proposing to leave decision making to the regulator, effectively making it a 'regulated code'.

¹ <http://gasindustrycompany.co.nz/dmsdocument/5491>, page 2

6. The *Gas Act 1992* (the Act) is clear that non-regulatory approaches are preferred over regulation. Section 43N(1)(c) of the Act provides that before making a recommendation for regulations or rules, the industry body must:

...ensure that the objective of the regulation is unlikely to be satisfactorily achieved by any reasonably practicable means other than the making of the regulation (for example, by education, information, or voluntary compliance).

7. The GIC's *Briefing to Incoming Minister of Energy and Resources – Hon Judith Collins* (page 2), dated January 2017, confirms that:

In essence, co-regulation requires Gas Industry Co to work closely with the industry; prefer developing non-regulatory options to address industry governance issues...

8. During various engagements with shippers, they have also confirmed their desire to have an 'industry code', rather than a regulated solution.

Preference for a voting approach with GIC review of issues of material risk

9. First Gas has proposed adopting many of the features of the VTC that would allow future changes to the GTAC to be robustly assessed by stakeholders in an 'evolutionary' manner, which we welcome. The VTC voting process has given the industry a 'self-adjusting mechanism' to resolve issues that eventually reflect the multiple perspectives of gas consumers as articulated by their respective shippers/retailers. It is therefore surprising that the "75% majority vote" process, an integral feature in the successful resolution of issues under the VTC, has not been chosen for the transition process.
10. We propose that the "75% majority vote" approach that has worked effectively under the VTC be adopted to determine whether substantive conditions have been fulfilled, paving the way for the implementation of the draft GTAC. If this voting threshold is not met, we further propose that issues of "material risk" to the gas industry and consumers identified during the voting process be referred to the GIC for review and determination.
11. A potential issue of "material risk" is the fact that stakeholders are divided on who or which entity should make decisions over future changes to the GTAC (between a voting process or an independent decision maker). This is reflected in stakeholder submissions on Concept Consulting's paper, *Gas transmission access code – governance options*, dated April 2017. First Gas stated that it has "no intention of progressing the transition to the GTAC if the industry has major areas of concern" (page 4 of the Information Paper). We believe this remains a major area of concern.
12. While the "75% majority vote" could be construed by some as a tool for incumbent shippers to create barriers to market entry and participation, it should be recognised that any new market participant would have to sign up to the GTAC via First Gas and be subject to the same terms and conditions as all other signatories to the code. As discussed below, the design and nature of the proposed access products under the GTAC are more likely to create

barriers to market entry and participation (due to greater complexity that reduces the attractiveness of gas as a fuel of choice) than the decision-making process itself, e.g. voting.

13. We believe the approach we propose above is consistent with the non-regulated nature of the GTAC. It would incentivise 'self-regulation' and the development of self-adjustment mechanisms by the gas industry (including existing and potential market participants) as the industry faces the challenges and opportunities in a rapidly evolving energy sector.

Proposed substantive conditions for the GTAC transition process

14. We propose that the threshold proposed by First Gas for the GIC review (should it be adopted) additionally reflect the widely supported GTAC objectives, including the objectives of 'keeping things simple' and 'enabling the use of gas'. Our submission on the *GTAC Emerging Views Paper*, dated 23 June 2017, expressed serious concerns that the proposed access products, in their current form, would not meet these objectives.²
15. Our submission pointed out that the proposed daily nominated capacity will create greater complexity and costs for shippers. Shippers will be incentivised to focus on avoiding overrun costs rather than providing First Gas with robust information on the demand they anticipate from their customers and therefore their capacity requirements.
16. Our submission further pointed out that the proposed priority rights (PRs) would transfer the risks associated with the lumpy nature of congestion from First Gas, the party best placed to anticipate and manage those risks, to shippers and eventually consumers, who do not have the tools and system-wide information to manage those risks. We noted that 83% of gas transported in New Zealand goes to direct connect customers; it is First Gas who will have the most accurate information about their consumption.
17. We propose that the auction of PRs - should this mechanism be adopted - should only be held for delivery points where congestion is known or reasonably expected to occur. This is the approach taken for management rights for radio spectrum in New Zealand (akin to property rights - where rights are auctioned when they are about to expire or when certain services cease to be delivered due to technological obsolescence). The proposed auctioning of NZUs under the NZ Emissions Trading Scheme in the coming years appears to be on a similar 'needs to' basis.
18. We also propose that First Gas consider the potentially adverse impact of six-monthly auctions of PRs (even where there is no congestion) on the development of secondary trading.

Timelines

19. We share the view of many stakeholders that, while we will work with First Gas to try to meet the proposed transition timeframes for the GTAC, these timeframes are very tight and require further granularity to provide certainty for stakeholders.

² <http://gasindustrycompany.co.nz/assets/Consultations/Uploads/Vector-Submission-GTAC-Emerging-Views-Paper.pdf>

20. We seek details from First Gas on the process and timing of further consultations with stakeholders on the full draft code from when it is released in August 2017 until the post-negotiation draft code is submitted to the GIC for review at the end of October 2017. For example, when would First Gas call for submissions and/or interact with individual stakeholders and how much time would stakeholders have to consider the full draft and provide feedback?
21. The timeframe that First Gas has allowed for the off-the-shelf implementation of its new IT system does not include the time required by its customers to change their IT systems. First Gas customers do not have the luxury of implementing off-the-shelf systems; they will need to change their existing systems which involves more complex and risky processes. We consider the timeframes set by First Gas for IT system, process and contract changes for shippers and their customers to be very tight.
22. The implementation of new IT systems or changes to existing IT systems by industry participants will likely have an impact on gas downstream reconciliation processes. We suggest that First Gas include in the transition timeframe sufficient time for industry participants to ensure they will remain compliant with clause 65 of the *Gas (Downstream Reconciliation) Rules 2008* – “Industry body to commission performance audits”.

Further engagements

23. We are happy to further discuss this submission and our views on the GTAC transition process with First Gas over the coming weeks.

Yours sincerely

A handwritten signature in blue ink, appearing to read "Anna Carrick".

Anna Carrick
Manager Natural Gas Trading