



GREYMOUTH GAS

17 December 2009 MPOC Change Request [Balancing]: Status Update

Submissions close 26 March 2010

Greymouth Gas New Zealand Limited (Greymouth Gas) is pleased to make a submission on this paper, submitted by the Gas Industry Company (GIC) to the industry for comment on 12 March 2010. We welcome the opportunity to submit.

As a preliminary comment, page 8 of the 17 December 2009 MPOC Change Request [Balancing]: Status Update paper (the paper) contains a reference to Greymouth Gas Limited. Greymouth Gas notes that this should read Greymouth Gas New Zealand Limited.

1) Do you consider there are any other issues relevant that are not identified above [in the Revised Timetable]?

In addition to balancing, capacity, VTC Change Request appeals, interconnection and 'D+1' allocations, Greymouth Gas considers that the GIC's Infrastructure Access Group urgently needs to devote resource to the Distribution Contracts work-stream.

Reasonable terms and conditions of access to distribution [and transmission] networks should be an ongoing focus of the Infrastructure Access Group, given that the group is "required to ensure that arrangements exist for market participants to access transmission and distribution pipeline networks and gas processing facilities under reasonable terms", as per the 23 December 2009 GIC paper titled 'Proposed Gas (Levy of Participants) Regulations 2010'.

Greymouth Gas notes that the VTC is due to expire this year and some sort of extension/negotiation will also keep the industry busy in 2010.

Perhaps it is time to act on the majority of the industry's views and reassess whether a regulated balancing solution is required? Depending on the outcome of the cost-benefit analysis, perhaps this work-stream can be stopped, thus freeing up resource for the Infrastructure Access Group to focus pragmatic initiatives that will result in tangible, easy-win improvements to the gas industry.

2) What level of conditionality do you consider should apply to a GIC recommendation on an MPOC change request?

Greymouth Gas considers that the GIC should have no degree of conditionality with regard to its recommendations on MPOC change requests. In short, the GIC should unequivocally either support or decline to support an MPOC change request in its entirety.

Such an approach would incentivise MDL to obtain industry buy-in to issues prior to submitting formal change requests and it would also encourage MDL to submit smaller, more manageable change requests.

It should be up to the industry to determine what part/s of any MPOC Change Requests should be approved or declined, and it should be up to the GIC, as arbiter, to apply the relevant law, i.e. section 29.4(a) of the MPOC and the MoU dated 2006 between the GIC and MDL.

Greymouth Gas also considers that the GIC should maintain a purely independent view on such matters and stick to the clearly defined brief. Allowing GIC to provide conditional recommendations invites it to introduce matters outside the scope of the submissions provided in respect of any change request and take, and advance, its own position on a change request. It thereby compromises GIC's role in impartially assessing the merits of the submissions received and applying an impartial judicial determination to those submissions.

3) Do you consider that section 29.4(a) [of the MPOC] is sufficiently clear on the matter of conditionality?

Yes, Greymouth Gas considers that section 29.4(a) of the MPOC is very clear on the matter of conditionality, i.e. *"the GIC... has made a written recommendation, following appropriate GIC consultation, supporting the Change Request"*.

It does not say "supporting part of the Change Request". The clause clearly refers to the Change Request in its entirety.

Further, Greymouth Gas considers that the Memorandum of Understanding dated 2006 between the GIC and MDL (the MoU) is also relevant here, as this sets out interpretation of section 29.4(a) of the MPOC.

Section 2.4 of the MoU states that *"before deciding whether or not... to recommend that a particular Proposed Amendment be supported as a Change Request..."*, and Proposed Amendment is defined as *"an amendment to the code [MPOC], and to affected ICAs and TSAs, proposed by a party with a view to making a Change Request under section 29.4 of the code [MPOC]"*. This further supports the clarity regarding conditionality because:

- The MoU refers to a singular Change Request containing a singular Proposed Amendment (whether or not that is a package of changes is not relevant),
- The 17 December 2010 Change Request was a single Change Request, thus the GIC must decide whether or not to recommend support for the whole Change Request,
- At no stage in the MoU does it say "or part thereof", which would have been used had the intention been for the GIC to be able to recommend conditional support for a Change Request/Proposed Amendment.

In short, the view of Greymouth Gas is that both MPOC and the MoU clearly support unequivocal decisions by GIC on the entirety of a Change Request. In our view, this approach is desirable as it allows for certainty and clarity.

4) Do you consider that MDL should subdivide the December Change Request into smaller packages?

Yes, Greymouth Gas considers that MDL should subdivide the 17 December 2009 Change Request into smaller packages. This would allow each key change to receive proper analysis, and if one particular change does not receive support, that would not prevent other changes from progressing through the approval process.

Greymouth Gas considers that subdivision of the 17 December 2009 Change Request should not occur while it is still going through its formal process. This is because it would then become separate Change Requests, with the need for separate processes for each part.

While subdivision and re-defining, re-setting the processes is possible, Greymouth Gas considers that the Change Request should be withdrawn or struck out immediately. This would allow MDL to engage in appropriate industry discussion before progressing some or all of the 17 December 2009 Change Request in subdivided parts.

Some may argue that the balancing changes need to be progressed as part of a package. While this is true, this should not prevent subdivision of individual matters. It will just be a case of planning which building block changes need to be made before some of the flashier changes can go through, or not, as the case may be.

5) Do you agree that there is no need to delay consideration of the December Change Request as a result of Vector's objections?

No, Greymouth Gas does not agree with this. The GIC seems to be creating extra work for themselves at a time when work seems to outstrip resources (by inference that Infrastructure Access Group is 'particularly busy').

Pragmatically, it makes sense for Vector and MDL to work through their issues otherwise we consider there will be either potentially unnecessary extra work, or a legally confusing situation whereby a Change Request is progressed that is subject to an ICA dispute.

Greymouth Gas considers that if MDL does not withdraw the 17 December 2009 Change Request, that the GIC should put it on hold until Vector's objections are worked through. This would incentivise MDL to reach a negotiated landing with Vector, and/or it would incentivise MDL to withdraw the 17 December 2009 Change Request and start again afresh, in subdivided parts, and obtaining industry buy-in in advance.

6) Do you agree that the impending recommendation that balancing rules be introduced should not prevent the December Change Request from being processed?

No, Greymouth Gas does not agree with this, given all the other issues as discussed in this submission. Again, the GIC seems to be creating extra work for themselves.

7) Way Forwards

Greymouth Gas is disappointed that MDL put forth the 17 December 2009 Change Request without discussing with the industry in advance. We also note that this

process is effectively like re-writing the MPOC and doing that via one Change Request is ambitious.

In any case, regardless of whether MDL withdraws the 17 December 2009 Change Request or not, Greymouth Gas considers it pretty clear, as inferred by the paper, that some sort of industry workshop or series of workshops will be needed to understand and work through the issues.

Greymouth Gas notes that Vector's VTC negotiations took the best part of 2009 to work through, before losing momentum. We seek a steer from MDL whether they intend to run a similar, albeit slightly shorter process in order to work through the subdivided Change Requests.

If this is going to be the way forwards, then we request that:

- Agendas are accurate, complete and available at least a week in advance,
- Workshops are held in cities pro-rated based on the location of participants and/or consideration is given to flight times/traffic,
- A dispute-breaking mechanism is established to avoid what happened during the ICD process.