

27 June 2019

Paul Cruse  
Gas Industry Company Ltd  
WELLINGTON 6140

Dear Paul,

Re: MGUG Cross Submission on Options for Information Disclosure in the Wholesale Gas Sector

1. We provide this cross submission on the Gas Industry Company (GIC) Consultation Paper - Options for Information Disclosure in the Wholesale Gas Sector (the disclosure paper). This cross submission is being made on behalf of the Major Gas Users Group (MGUG) which comprises:
  - a. Ballance Agri-Nutrients Ltd
  - b. Fonterra Co-operative Group
  - c. New Zealand Steel Ltd
  - d. Oji Fibre Solutions Ltd
  - e. Refining NZ
2. Nothing in it is confidential and some members may choose to make separate submissions. This cross submission should be read in conjunction with the MGUG submission dated 17 April 2019 on GIC's disclosure paper.
3. MGUG has participated in this GIC workstream, including attending the workshop held on 27<sup>th</sup> March 2019 and submitting on the GIC's disclosure paper. GIC says the submission process has raised a number of different perspectives on several issues (including outage disclosure and forecasts of future consumption).
4. Unfortunately GIC has not provided much in the way of detail that would guide or help submitters in preparing cross submissions. Given the number of submissions we think there would have been some benefit in GIC providing more focussed analysis on the range of responses, as part of determining where it felt further comment was necessary. In any event we are working on the assumption there will be ample opportunities for further consultation and submissions as the GIC workstream proceeds.
5. We note that recently the Ministry of Business, Innovation and Employment (MBIE) consulted on specific areas of the Gas Act 1992 which it has examined to see whether those areas of the Act remain "fit for purpose". This has highlighted potential areas where the GIC disclosure workstream, in our view, overlaps with the Gas Act review (which includes the penalties regime that would apply to disclosure).
6. We also note that in its submission on the GIC disclosure paper, PEPANZ, on behalf of OMV, Todd Energy and Beach Energy (including Beach's JV partners Genesis Energy and New Zealand Oil and Gas) has engaged directly with GIC proposing a voluntary model for disclosing

information about planned and unplanned outages, with a focus on events of materiality to the market and major users. As at the date of this cross submission we are not aware of anything specific being provided by PEPANZ.

7. We reviewed other submissions against the topics we included in our 17 April submission (paragraph 15) on the GIC paper. These we would see as important to our ability to effectively manage day to day operations, and make informed investment decisions. We also think it is worth applying a concept of relevance i.e. information should impact the decision making of someone perusing the information. This then sets a level of materiality to the information to be provided and so we would encourage GIC to examine the concept of materiality as part of determining what entities should have an obligation to disclose.

8. For the purposes of this cross submission our specific comments would be:

**a. PEPANZ Initiative**

While moves to improve the disclosure regime by consensus are supported by MGUG we believe the PEPANZ initiative should not limit, hinder or prevent GIC from carrying out the review of all the options that could be covered in a fit for purpose disclosure regime. Even if the PEPANZ initiative is able to deliver an acceptable way forward there are other questions to be considered including:

- i. Adequacy of the information to be provided;
- ii. Will the proposal require regulatory force to ensure no stand-out?;
- iii. How would the penalties regime in the Gas Act apply to a voluntary regime?

These questions are unlikely to be addressed by the PEPANZ proposal. And there is a risk that any proposal will incorporate a producer bias. Hence it will be important for GIC to address all elements of what might constitute an appropriate disclosure regime.

**b. Planned and unplanned outages**

Our review of submissions indicates that disclosure of planned and unplanned outages has widespread support. There was however a less uniform response around the size thresholds that would determine responsibility.

As we have noted previously, good outage information allows individual gas users to make sensible decisions about timing of operations so as to minimise impacts across the wider gas market. This leads to more efficient use of gas. As pointed out in its submission NZ Steel were endeavouring to align the timing of a planned maintenance shut (which would substantially reduce NZ Steel's gas requirements) with the timing of the Pohokura outage work, thereby assisting the wider gas market.

We accept there is a challenge in setting an appropriate threshold for the obligation to apply to. Placing an obligation on a party will have costs; any obligation should be supported by evidence that the benefits is doing so exceed the costs. Our view is that materiality should be a factor in setting a threshold - any level should be set by

reference to what is relevant and meaningful (in the sense that it will have a material impact related to the gas being supplied to the affected area). For example we doubt Meridian's suggestion of no minimum thresholds/ coverage exclusions similar to electricity participants would be appropriate or useful in the gas market, particularly when applying a measure for materiality and efficiency. It is likely to impose cost without necessarily improving disclosure. We would encourage GIC to examine all dimensions of this obligation in its next stage of consideration. This also needs to be examined in the context of any changes proposed in the penalties regime for the Gas Act 1992.

**c. Improved reserves/resources reporting**

One matter that came out of our analysis of submissions was the relative lack of comment on improved reserves/resources reporting. Generally there was little or no comment although PEPANZ put forward the view that improved reporting was not relevant to near term production. MGUG has sought improved context around reserves and contingent resources information.

GIC's consultation paper has raised disclosure of petroleum field information, noting as an "important input into parties understanding of the value of gas information on gas reserves, production, forecasts and deliverability". We agree.

We were surprised there was so little comment on this matter, particularly with the heightened awareness around future gas supply which, as everyone knows, faces a very uncertain future. The lack of comment may have been due to the fact that the need for disclosure arose out of problems created specifically by the Pohokura events over 2018; the cause was near term and severe.

But MGUG members are also concerned about the longer-term availability of gas so that they can make informed investment decisions using gas that are underpinned by a reasonable level of confidence that the gas will be available and at a competitive price. We appreciate PEPANZ's view (at para 20) that the disclosure of 2C resources is not relevant to near term production. However we are unsure what is meant by near term.

As we have said in our initial submission we think information around the sources of contingency and investment programs needed to bring reserves to market and resources to reserves could be improved (or could be explored in more depth by GIC), which would ensure gas market investment longer term. We see this as vitally important in the current context where continued availability of gas looks challenging.

In our view GIC should continue to explore opportunities to improve the disclosure of petroleum field information as part of the work stream. We say again that GIC's report comparing information disclosure in other countries and markets has been useful in demonstrating the degree to which public disclosure in New Zealand is aligned with practices in similar jurisdictions. This is particularly in Australia where similar market

structures to New Zealand exist and with similar features in relation to tight supply and demand conditions.

**d. Significance of the Gas Act 1992 review**

There are a number of uncertainties impacting GIC's disclosure workstream that are emerging from MBIE's review of the Gas Act. These include:

- i. **Lack of clarity how the Gas Act review fits with GIC's disclosure workstream** - the Gas Act review appears to be shutting down any scope for review of relevant Crown Minerals Act provisions and GIC's ability to include focus on matters affecting reserves/resources appears to be out of scope.
- ii. **Review of Penalties Regime** – this is being reviewed without a clear indication of the substantive problems (including disclosure) the review is seeking to address. In our view a review of the penalties regime is premature until the precise substantive problem conduct is identified and associated rules developed.

Yours sincerely

A handwritten signature in black ink, appearing to read 'R Hale', with a large loop at the end of the 'e'.

Richard Hale/Len Houwers  
Hale & Twomey Ltd/Arete Consulting Ltd  
Secretariat for the Major Gas Users Group

