

27 June 2019

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Dear Andrew

## **CROSS-SUBMISSIONS ON OPTIONS FOR INFORMATION DISCLOSURE IN THE WHOLESALE GAS SECTOR**

1. This document constitutes the joint submissions of Todd Energy Limited as well as its related upstream companies (“**Todd Energy**”) and Nova Energy Limited (“**Nova**”), together “Todd”, for the *Cross submissions on Options Paper* (“**the Option Paper**”) issued by the Gas Company Limited (“**GIC**”).

2. Todd Energy is a natural gas producer and is the 100% owner and operator of Kapuni, McKee and Mangahewa and holds 26% interest in Pohokura. Nova is a downstream energy company: it is a wholesaler and retailer of natural gas supply as well as an electricity generator and retailer. Both companies are wholly New Zealand-owned.

3. This submission addresses matters raised by other submitters.

### **Information disclosure on planned and unplanned outages**

4. Several submitters indicated their support for voluntary disclosure of outage rules as a matter of priority.

5. Upstream gas producers recognise the immediate need for a consistent and proactive approach to disclosing gas supply outages. Producers have already held a series of workshops on a disclosure code and have engaged a third party to begin drafting a voluntary industry-led code on outages. We expect this disclosure code to be published and up and running September 2019.

### **Regulated disclosure requirements vs voluntary regime**

6. Many submitters preferred a regulated response rather than a voluntary one.

7. Producers appreciate that failure to comply with industry led solutions or failure to agree to an acceptable solution would lead to regulatory intervention and are therefore incentivised to ensure that the industry solutions will work effectively.

8. Todd is in the process of engaging with other upstream gas producers to set up a new system to provide information on planned and unplanned gas outages. We are confident that this will be effective as a voluntary non-regulated system. Todd expects that any real or perceived information disclosure problems will be satisfactorily resolved by this non-regulated solution, making regulation under the Act unnecessary. Having said that, Todd does not object to a new regulation/rule making MBIE power being included in the Act on information disclosure.

9. A key criticism of a voluntary disclosure code is the lack of “teeth” of such a code, having no regulated penalties for non-compliance. Gas producers are aware of the need for a mechanism for compliance and this is being addressed.

### **Principles-based disclosure of information**

10. Meridian Energy and the Electricity Authority called for a principles-based approach to information disclosure. The Electricity Authority recommended this approach “because parties understand it, comply with it, have found it effective in reducing asymmetry”. Todd could work to a principles-based approach if that is deemed to be the most appropriate solution, but it notes that ‘market impact’ is much more difficult to gauge in a bi-lateral market than the gross-pool market that electricity generators work with. As such there would still need to be considerable guidance as to what examples constitute material information.

11. The upstream gas producers have discussed the two options, a principles-based and a specific disclosure regime. Producers consider that a specific disclosure regime would be simpler to manage and would lead to quicker disclosure of outages. The intention of gas producers is to publish thresholds (in Terajoules) for making outage disclosures. The thresholds are intended to be effective proxies for market impact, taking into account the producer’s plant capacity and market demand.

### **Gas contract disclosures – link to electricity prices**

12. Todd recognises that gas supply information has a direct bearing on the electricity market and addresses that point in this cross-submission.

13. The Electricity Authority and Energy Link made a case for the increased disclosure of gas price and volume information. The point is made that gas, by virtue of its firming role in electricity generation, sets the short run price for electricity generation much of the time. Todd notes that under average hydro conditions, even in the absence of publicly disclosed pricing information, energy analysts are able to estimate the thermal generators’ cost of generation and fuel position by monitoring their energy offers.

14. However, during periods of very high hydro inflows, thermal generation is virtually superfluous and thermal fuel prices become irrelevant to electricity prices. At such times, gas is only used to satisfy ‘take or pay’ commitments, or to keep plant available to cover peak demand periods.

15. In contrast, during very low hydro conditions, the electricity spot price is determined by both hydro generators and thermal generators. Both sets of generators set their generation offers to a price level where their fuel usage (water, gas, coal) is rationed and they stimulate demand response and prices high enough to be able to acquire additional thermal fuel.

16. Under such conditions, demand for thermal fuel is increased. While coal supplies can be stepped up and sourced from overseas (subject to lead times), gas may needed to diverted from existing uses as (apart from the Ahuroa gas storage facility) there may not be a pool of gas or unallocated production available for supplying additional gas to the electricity

market depending on market conditions at the time and the level of gas capacity contracted including to thermal generators.

17. Contracted gas may need to be freed up from alternative applications when there is a bid by thermal generators to secure more gas to cover for hydro shortages to the extent they have not secured contracted capacity previously. There is no simple determinant for what the price of gas needs to be in order to divert increased gas for increased thermal electricity generation. The availability of gas depends on many factors, including limitations on production capacity, but also the contractual priorities and commitments of parties that can potentially free up the availability of gas. At such times the price of gas traded on emsTradePoint is closely linked to the electricity spot price, and this is already disclosed to the market (for a subscription fee but see paragraph 29 below).

18. The level of trading information that Meridian seeks under Q8 of the Option Paper is simply not feasible for a small market with long-term bilateral trading arrangements; i.e. the market simply does not have the structure to provide a “current forward price curve, level of trading and level of depth”, and “projected consumption and production” figures are subject to so many parameters that producers and major consumers would need to disclose their entire order book and investment plans for the information to have relevance.

#### **Gas contract disclosures - major gas consumers exposed to international competition**

19. Energy Link has stated that disclosure of electricity contracts has not resulted in commercial disadvantage to any electricity market participants and therefore would like to see gas contracts disclosed in the same way. Todd questions the substance of this claim, but irrespective of this, an issue not acknowledged by Energy Link is that gas supply arrangements are directly pertinent to the internationally competitive markets for methanol, urea, hydrogen peroxide and other manufactured goods.

20. Todd reiterates its view that that the long-term commercial interests of major gas users should not be sacrificed in the interests of greater information disclosure. Given New Zealand's trade exposure to commodity products it makes no sense to put New Zealand entities at a trading disadvantage to offshore interests, e.g. in the sale of methanol or import of urea.

21. It is useful to note the priorities of the Major Gas Users Group (“MGUG”) as set out in its submission:

In general, relevant information for MGUG members that relate to the gas information disclosure discussion are:

- a) Will I be able to receive the gas that I have contracted for when I need it?
- b) How secure is my supply on a short term and long-term basis?
- c) What investments do I need to consider to mitigate price and security risks in the market?
- d) Can I get sufficient warning of supply disruptions to inform my operational contingency planning?

22. Further from MGUG:

- a) Gas price information aggregated by MBIE from wholesalers and retailers and published annually in Energy In New Zealand is 7-8 months out of date. It is also published only annually, whereas production data is published quarterly.

23. There is room for improvements in the timeliness of information on the price of gas that is currently disclosed by MBIE, but publication of contracts as per the Electricity Hedge Disclosure System is not the answer given the number of non-price related terms in gas supply arrangements that have an overall impact on the gas price. It is telling that MGUG is not making a case for disclosure of gas price and volume details; and it is understandable why given their members' exposure to international competition.

**Gas contract disclosures - the size of the gas market makes aggregation of contract information highly problematic**

24. Meridian Energy and Energy Link contend that gas disclosure requirements should be the same as those under the electricity wholesale market rules. Meridian Energy further suggest that some level of aggregation could be looked at to overcome any confidentiality concerns. There appears to be an assumption that the gas market operates in the same way as the wholesale electricity market.

25. The gas market is limited to a small number of large producers and sellers, and not a great number of Time of Use ("TOU") size consumers. If gas contracts were to be disclosed as per the Electricity Hedge Disclosure System, as proposed by Energy Link, then market participants would likely be able to identify the parties to all new contracts. In a small market dominated by a few producers, this could just as easily enable wholesalers to increase prices rather than increasing competition.

26. The wholesale electricity market is a 'gross pool' market i.e. a centralised market where all electricity is sold and purchased through the pool. Under this centralised market model, the production schedule for electricity generation and market price is determined by the market operator. The gas sector operates under a decentralised bilateral contracts market where delivery, volume and pricing decisions depend on each party's requirements, not the market operator.

27. The delivery terms in supply contracts, e.g. 'take or pay', flexible volume or contingent or put arrangements has a large impact on the effective value of the contracted gas. Customers who value security of supply will contract and pay for a portfolio (multi-source) supply basis, while other customers may have flexible terms in their contracts and their gas price will adjust accordingly. There is also an issue that industry participants will have an idea of what terms are likely to apply in different cases, but third parties would find it very difficult to value such terms given the bespoke nature of the contracts.

28. Todd concurs with the submission of Trustpower in this respect:

"While we acknowledge that there is currently a gap with respect to average wholesale price and aggregate traded volume (covering gas traded under bilateral contracts and brokered arrangements), it is not clear this is creating any inefficiencies in the gas market that need to be immediately addressed."

"We caution that any information released around average wholesale price and volumes would need to appropriately take into account the nuances of contracts. Contracts for gas are generally priced to reflect a number of characteristics of the agreement including force majeure provisions, carbon pricing, and flexibility. Gas price and volume information on its own may be misleading."

## **WITS 'Free to Air' is not free**

29. Some respondents are seeking emsTradePoint gas trading data to be made freely available, just as Wholesale Information and Trading System ("WITS") 'Free to Air' is freely available. This reflects a fundamental misunderstanding of the market differences. WITS is paid for by electricity market participants through a levy. emsTradePoint is not funded in this way. To the extent that parties find real time access to emsTradePoint data of value, they should expect to pay a subscription for that information.

30. Todd supports these points made by Trustpower:

"We note it is possible for interested parties to access gas price information through the emsTradePoint platform for a modest subscription fee, as discussed at the public workshop."

"A better understanding of the ACCC's new periodic series of weighted gas price information may assist the GIC and industry in considering this option, given the commercial sensitivity of long-term gas contracts. One option might be for the ACCC<sup>1</sup> to present to the NZ gas industry around its work in this area so we can gain a better understanding of what has been adopted in Australia and how it is being used."

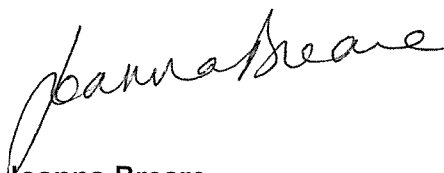
## **The Electricity Authority can address the electricity market needs itself**

31. The Electricity Authority states that "it is inefficient for gas disclosure to come about via electricity disclosure rules". Certainly, for outage information that is the case; but to the extent that the electricity sector needs greater transparency on thermal fuel supplies, then that should be addressed under the Electricity Industry Participation Code.

32. The Electricity Authority found that in its investigation of the Undesirable Trading Situation (UTS) claim in late 2018 that many electricity market participants had not made effective use of publicly available information sources. Following the events of 2018, we would think it reasonable to assume that market participants are now more likely to be better informed as to the various sources of information that are publicly available and that they will make use of those information sources going forward to better manage their affairs as they see fit.

If there are any questions relating to Todd's submissions, please contact Joycelyn Raffills at first instance: [jraffills@toddcorporation.com](mailto:jraffills@toddcorporation.com).

Yours sincerely



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<sup>1</sup> "ACCC is the Australian Competition and Consumer Commission"

