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Submission on *Information Disclosure Problem Assessment – Cross Submission Issues*

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## PEPANZ Submission: Information Disclosure Problem Assessment – Cross Submission Issues

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### Introduction

1. Established in 1972, we are the industry association of the upstream oil and gas sector. We proudly represent the companies that explore for, and produce, New Zealand's oil and gas resources. Our members produce an estimated 95 percent of New Zealand's petroleum. We also represent more than 50 associate member companies who provide a wide range of goods and services to the industry.
2. This document constitutes the Petroleum Exploration and Production Association of New Zealand's (PEPANZ) submission in respect of *Information Disclosure Problem Assessment – Cross Submission Issues*. This follows PEPANZ's original submission on the:
  - *Options for Information Disclosure in the Wholesale Gas Sector* Consultation Paper (April 2019),
  - *Cross submissions on Options Pape* (June 2019), and
  - *Information Disclosure: Problem Assessment* (December 2019).
3. We support the consultative manner in which the Gas Industry Company is engaging and the process of allowing cross submissions.
4. We understand the concern about disclosure at upstream facilities and hence the upstream sector agreed to devise a code for disclosing information about outages. On 5 March 2020, we wrote to the Gas Industry Company explaining and introducing this code. The Code comprises a full set of rules in relation to timely public disclosure of information about both planned and unplanned gas outages. Publication of outage information pursuant to the Code will provide greater transparency about outages at gas production facilities and gas storage facilities. This should facilitate better functioning of the wider gas and electricity markets in New Zealand, for the benefit of affected stakeholders.

### **Contract price and volume information**

5. We remain opposed to the disclosure of price and volume information. Acknowledging that certain information is useful to the market, it is important that any regulation or compulsion only apply to material and demonstrable market failures. We submit that such failure has not been made out.

6. Much information may be of general interest (and indeed usefulness) to competitors but is not essential for the market to function. To the extent that discrete information about prices by itself is helpful, the spot market is an ever-present source of up-to-date information, particularly given the small size of the New Zealand market.
7. As has been stated previously, price and volume contracts are well-known to be deeply commercial and therefore sensitive, particularly in industries where one large user dominates and relies on a spot market to respond to any shortfall in input fuel.

### **Forecasts of major users' gas consumption**

8. We remain of the view that forced disclosure of users' gas consumption does not have significant benefits beyond general interest, i.e. it is not essential for the functioning of the market. Depending on the level of detail required, any forced disclosure of consumption forecasts risks requiring information about major users' outages to be disclosed which we do not support (as covered in the next section). This is due to the negative commercial impacts on some downstream firms that would result from disclosure.
9. The Problem Statement consultation of late 2019 did not appear to specify the timeframe to which forecasts would relate. In the case of long-run forecasts, any number of factors can change, meaning 'forecasts' are not much more useful than scenarios which describe a potential future if a range of factors coincide.

### **Major gas user facility outages**

10. The paper *The Impact of Methanex Plant Outages on the Gas Wholesale Market*<sup>1</sup> does a good job of reviewing the issues and analyses the actual impact of outages on price. Informed by that paper, we remain of the view that forced outage disclosure would have adverse commercial consequences on downstream users especially Methanex.
11. Methanex plays a crucial role in effectively underwriting the domestic gas market by providing a stable demand base to justify new exploration and production. We therefore consider it crucial that any interventions which may compromise its position are very carefully considered due to the risk of unintended consequences which, perversely, damage the economics of the entire gas market. If Methanex is compromised, then the domestic gas market will be undermined, and the rest of the sector will likely face far greater problems than not having users' outage information that some participants seek.
12. In the spirit of minimising potentially harmful regulation, if the GIC or government insist on greater disclosure from Methanex we draw attention to the Legislation Design and Advisory Committee's *Legislation Guidelines*. The Guidelines emphasise that legislation should only be used when essential and non-regulatory solutions have failed. Particular caution is needed where the policy can be implemented equally well by non-legislative means – "*Legislation should only be made when it is necessary and is the most appropriate means of achieving the policy objective.*"<sup>2</sup> In light of both this Guideline and the example of upstream producers successfully devising a code, it would be reasonable to give Methanex/ downstream users the opportunity to see if a voluntary disclosure regime can be devised before moving to regulatory options.

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<sup>1</sup> The Impact of Methanex Plant Outages on the Gas Wholesale Market. John Bay. 4 February 2020 .  
<https://www.gasindustry.co.nz/work-programmes/gas-sector-information-disclosure/problem-assessment-october-2019/cross-submissions-on-problem-assessment/>

<sup>2</sup> Chapter 2: LDAC Guidelines. <http://ldac.org.nz/guidelines/legislation-guidelines-2018-edition/>