

Keston Ruxton
Manager, Input Methodologies Review
Regulation Branch
Commerce Commission
PO Box 2351
Wellington
(via email to im.review@comcom.govt.nz)

18 August 2016

Dear Keston

RE: Input methodologies – draft decisions

1. This cross submission is on behalf of the Major Gas Users Group (MGUG) in response to the submissions posted by the Commission on its consolidated draft decision papers of 16 June and Report on the IM review of 22 June 2016.
2. MGUG members have been consulted in the preparation of this submission. Nothing in this submission is confidential. Some members may choose to make separate submissions.
3. Our cross submission is in response to two submission points raised by First Gas. The first relates to First Gas' comments on gas pricing methodologies¹, particularly as they relate to gas transmission. The second relates to the option to accelerate depreciation of assets based on stranding risk, which MGUG does not support.

Pricing Methodology

4. First Gas raises the risk of different regulators (Commerce Commission and GIC) sanctioning different pricing approaches, because they are working to different legislative objectives (Commerce Act 1986 vs the Gas Act 1992). First Gas raises this in the context of the GIC's Transmission access and pricing work programme, which includes convergence of the VTC and MPOC transmission codes².
5. The Gas Act's principal policy objective for the GIC when recommending rules or regulations affecting transmission and distribution is to prescribe reasonable terms and conditions for access³. It is also the Government's objective that the GIC takes into account fairness to existing and new customers when making its recommendations to the Minister as well as identifying a range of other policy objectives concerned with achieving good consumer outcomes⁴.

¹ First Gas Submission on IM review draft decision non-WACC 4 August 2016-1

² Ibid, at page 2.

³ Gas Act 1992 S43F(c)

⁴ Government Policy Statement on Gas Governance – bullet points 9, 11(a)-(f)

6. First Gas anticipates that a pricing methodology will be an important component of the code convergence work with *“transmission access and pricing going hand “in glove”*⁵. MGUG agrees with this statement.
7. Although First Gas has undertaken to lead this convergence process and hopefully will achieve an outcome that is broadly supported by the industry and the GIC, there remains a possibility that the GIC prefers its regulatory backstop solution if the Code fails to achieve the objectives under the Gas Act and accompanying GPS. This may be in spite of the code achieving the rather broad and non-mandatory pricing principles in the Commission’s IM on pricing methodology.
8. On 12 August 2016 GIC published a paper entitled Transmission Prices – Roles and Responsibilities⁶. The paper discusses GIC’s views on the roles of each of the Commerce Commission and GIC regarding pricing methodologies. GIC provides a summary of its views on pricing powers as follows (at page 8):

“..the Commission has an explicit power to set prices and quality standards in relation to GTBs, and has the power to set Pricing Methodologies. Gas Industry Co has only a general power to recommend gas governance regulations under the Gas Act prescribing reasonable terms and conditions for access to and use of transmission pipelines. Unlike the Electricity Authority, there is no carve-out from the Commission’s powers for Gas Industry Co to set Pricing Methodologies.”
9. GIC says it cannot override the Commission’s pricing methodology, nor does it have powers to set regulation. It can only set regulation on the basis that the Minister accepts the GIC’s recommendation. We note Section 52 T (1) (b) of the Commerce Act says the Input Methodologies must include pricing methodologies except where another industry regulator has the power to set pricing methodologies. GIC acknowledges that it doesn’t have such power.
10. In this context MGUG is concerned at the prospect of a converged code that meets the Commission’s pricing methodology⁷ but fails to meet the GIC’s test of the Gas Act objectives. This then leaves a gray area of interpretation for the Minister in considering any regulation proposed by GIC.
11. MGUG believes that to ensure any potential conflict between the Commerce Act and the Gas Act is dealt with appropriately, that the Commission included a statement under its pricing methodology that the pricing principles also need to support the objectives of the Gas Act and the Gas Policy Statement on Gas Governance. This would provide the GIC with a clear role in overseeing gas transmission and distribution pricing methodology.

⁵ First Gas submission, at page 2.

⁶ <http://gasindustry.co.nz/dmsdocument/5364>

⁷ Note also that it is not mandatory that suppliers comply with the pricing methodology.

Accelerated Depreciation

12. The Commission invited views on the option of accelerated depreciation of assets which face stranding risk due to impacts of emerging technologies. MGUG did not respond to this topic because, as First Gas noted in their submission, we did not see any evidence that this is a real issue for GPBs. First Gas however have suggested that in spite of there being no evidence of their assets being impacted by emerging technologies, nevertheless it would be prudent to provide the same option for GPBs as is being contemplated for EDBs. First Gas goes on to suggest that it be provided not just for GDBs, but GTBs as well.
13. MGUG disagrees with First Gas on this matter for two reasons. Firstly the Commission was open to considering asset lives for GDBs only on the basis that any increased risk of stranding was backed by evidence⁸. Since there is no evidence MGUG can't see a basis for changing the Commission's draft decision on this topic. Secondly the Commission only opened this up for GDBs, not GTBs, so by suggesting that the option should be there for GPBs First Gas has gone beyond the Commission's scope for the issue.

Yours sincerely



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Secretariat for the Major Gas Users Group

⁸ Topic 3 – The Future impact of emerging technologies – p37, bullet point 102