



30 August 2021

Andy Burgess
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Commerce Commission
P O Box 2351
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Via email: regulation.branch@comcom.govt.nz

Dear Andy

Re: GPB DPP3 Reset – Process and Issues Paper

1. This following submission is made in response to the Commerce Commission Process and Issues Paper, *“Resetting default price-quality paths for gas pipeline businesses from 1 October 2022”*, dated 4 August 2021. The submission is on behalf of the Major Gas Users Group (MGUG):
 - a. Ballance Agri-Nutrients Ltd
 - b. Fonterra Co-operative Group
 - c. New Zealand Steel Ltd
 - d. Oji Fibre Solutions (NZ) Ltd
 - e. Refining NZ
 - f. Wilmar International
 - i. New Zealand Sugar Company Ltd
 - ii. Goodman Fielder NZ Ltd
2. Nothing in this submission is confidential and some members may choose to make separate submissions.
3. While we have responded to all the items of the Commission’s issues list, we only address in depth the argument as to whether the Commission is justified in its view of “significant uncertainty” impacting on the settings for DPP3.
4. We do not see uncertainty being materially different from previous DPPs in determining the settings for DPP3. Consequently, our view is that the Commission should proceed with a price reset based on precedents set in DPP1 and DPP2, with the exception of setting the path for 4 years instead of 5.

Summary of MGUG response

5. Our views on the Commission’s identified issues are summarised in Table 1. We consider these as the best approach to promoting the purpose of Part 4:

Table 1: Summary of MGUG's views on Commission's Issues

Issue	MGUG’s position
Fundamental Changes to IMs	We agree with the Commission’s reasoning and proposal to not address IM changes outside the normal review cycle.
Approaches to setting starting prices	We submit that the Commission should follow the usual process to reset prices .
Forecast OPEX	We submit that the Commission should start with the OPEX forecasts signalled in the GPB 2021 AMP Updates.
Forecast CAPEX	We submit that the Commission should start with the CAPEX forecasts signalled in the GPB 2021 AMP Updates.
Climate Change Policy Uncertainty	We submit that the Commission sets a 4-year path to counter the residual uncertainty in year 5.
Form of Control	We submit that the current forms of control for GDBs and GTB are fit for purpose for DPP3.
IRIS	We agree with the Commission’s reasoning and proposal to not address IRIS outside of the normal IM review cycle.
Quality of Service	We agree with the Commission’s view that no additional quality standards are necessary.

Context for this DPP

6. We understand that the Commerce Commission has taken a view that the context for this DPP is being underpinned by greater uncertainty on the future of gas in New Zealand. The Commission considers that the uncertainty is greater because the Government has yet to decide what advice from the Climate Change Commission (CCC) it should give effect to.
7. While we agree that the medium to long term future of gas consumption is uncertain, we don’t consider that the pathway for gas within the shorter timeframe for the next regulatory period (2022-2027) is subject to the same levels of uncertainty. We therefore submit that the Commission’s perception of “significant uncertainty¹” underpinning its further thoughts is overstated.
8. The Commission acknowledges two different scenarios for gas assessed by the Gas Infrastructure Future Working Group; a ‘wind-down’ scenario (where gas is phased out and gas infrastructure is decommissioned) and a ‘repurpose’ scenario (where gas consumption transitions from natural gas to ‘clean’ gases).
9. While the Commission notes that there are major uncertainties surrounding the repurposing scenario, it hasn’t ruled out ‘clean’ gases being technically and economically viable alternatives

¹ Comcom paper - X14

to natural gas². The Gas Infrastructure Future Working Group equally concludes that a repurposing scenario is credible³. First Gas, who are promoting this scenario and have invested in this pathway, have laid out a timetable to 2050, with repurposing effectively starting in 2030.

10. While the Commission is entitled to its view that repurposing is less likely than wind down, the question is whether either pathway would materially manifest itself within the shorter timeframe for the next regulatory period (2022-2027) to an extent that this would determine whether the Commission should adopt anything other than a Business As Usual approach for the DPP3 settings.
11. While the medium to long-term future of gas consumption is uncertain, we don't consider that the pathway for gas in the next regulatory period has uncertainties that are materially different to the previous regulatory period. In particular we note that GPBs are already factoring in the current policy uncertainty environment in their own forecasts. While Powerco has yet to release their 2021 Asset Management Plan (AMP) update, Vector and GasNet have their AMP publicly available, and we are aware of First Gas's update through a webinar First Gas held on 14 June 2021. In particular we would note:
 - a. Vector's updated AMP shows a reduced *growth* forecast for *new connections* to FY31⁴.
 - b. GasNet's updated AMP indicates that gas connection growth will continue⁵.
 - c. First Gas presented their consumer connections forecasts to FY31 showing growth⁶.
12. These AMP updates also include CAPEX and OPEX forecasts that can form the basis of reset calculations.
13. GPBs CAPEX and OPEX programs acknowledge future uncertainty including:
 - a. Vector has updated its capital contribution policy to require consumers connecting to its gas network to contribute 100% of the cost of doing so⁷.
 - b. First Gas have adjusted their compressor replacement strategy delivery plan from 2020 to 2021 to acknowledge uncertainty over future needs⁸.
 - c. We would expect that prudent asset management would balance CAPEX/ OPEX trade-offs. For example, if GDBs anticipate asset stranding risk they would budget higher OPEX to maintain assets rather than replace them, while still retaining the option to replace them later.
14. The evidence therefore suggests that within the timeframe of DPP3, these GPBs have all taken into account the advice of the CCC, as well as other developments surrounding the future of the

² Ibid, X10

³ MGUG were invited observers on this group.

⁴ Vector – Gas Distribution AMP Update 2021 – figure 5.1. While rate of growth is reduced, Vector are still forecasting growth in connections.

⁵ GasNet AMP 2021-31, Section 7.3 System Growth

⁶ First Gas AMP and Business update – 14 June 2021

⁷ <https://www.vector.co.nz/news/gas-distribution-2021-capital-contributions-poli>

⁸ First Gas AMP and Business update – 14 June 2021

gas network system. In First Gas's case their working assumption in which they are investing resources, is repurposing the system, not wind down. Furthermore the wider factors around the gas market, particularly supply restrictions created out of Government policy, and wind down of domestic gas supplies have existed since 2018. This is not new information, and gas market participants have worked with this environment and are able to project this forward in their planning.

15. We also note that even the CCC's most extreme interventionist advice on gas suggested only bans on *new* connections, not a complete stop and dismantling of the gas system. The CCC advice assumes that natural gas will continue to be part of New Zealand's energy system to well beyond 2040.
16. We further note a shift in the Government's attitude to gas in the last eight months. There is a greater appreciation that gas has an important role to play in the energy transition implying an acceptance that gas has a longer-term future in New Zealand.⁹
17. We therefore believe uncertainty in the context of decisions required for DPP3 is being overstated by the Commission. We don't see that forecasting four to five years ahead is any more problematic than it has been for the other regulatory periods.
18. In some respects the picture ahead for DPP3 seems clearer than it was for DPP2 which assumed a stable and predictable policy environment which, with hindsight proved unfounded.
19. If the assumption of greater uncertainty can be rejected, it follows from the Commission's own reasoning that the preferred approach to DPP3 is to reset prices. The Commission acknowledges that the alternative to a price reset, a roll-over, will have the effect of higher initial starting prices. The Commission has determined that this is likely to result in excess profits for GPBs.¹⁰

4-years for DPP3

20. Given that uncertainty does increase with forecast length we do consider that a four year regulatory period is a pragmatic compromise to address the higher residual uncertainty in the fifth year of the regulatory period.
21. This shorter permissible statutory period also acts as mitigation to avoid a number of the other measures the Commission considered adopting including:
 - a. Changes in Form of Control for GDBs; and
 - b. Price reopeners.

⁹ Minister Woods – letter to the GIC 18 December 2020 indicated that gas will continue to be important to support the Government's energy transition plans.

¹⁰ Comcom report – Table X1 and Chapter 5

Form of Control

22. Given that connection growth is still forecast for GDBs we believe that WAPC form of control for GDBs gives appropriate incentive to invest to provide price stability for consumers while limiting excess profitability.
23. We are ambivalent as to whether the GTB should move away from a pure revenue cap. We accept that inter-period price volatility is a feature of the form of control created out of forecast limitations. Taken in context of overall revenue changes from year to year, wash-ups haven't presented any significant price shocks. For example in GY2021 the forecast allowable revenue for the transmission network was \$129,269,648. This moved to \$139,911,562 for GY2022. Of the \$10.6 million increase, less than \$2 million (1.5%) was attributable to opening wash-up account balance¹¹. The rest came from CPI increase and pass-through and recoverable costs. The biggest impact on prices will continue to be demand volatility from unexpected events¹². This is a factor outside of the GTB's control, which is the principal argument accepted by the Commission to support a revenue cap form of control.

Yours sincerely



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¹¹ First Gas Proposed Pricing Changes advised to stakeholders on 26 May 2021

¹² Especially from swings from major users such as generators and Methanex generated from supply disruptions, plant reliability, or hydrology that are inherently unpredictable.