

28 May 2021

Andy Burgess
Head of Energy, Airports and Dairy Regulation
Commerce Commission
Wellington 6143
By email to regulation.branch@comcom.govt.nz

Dear Andy

RE: Open letter on priorities for energy networks and airports

1. Thank you for the opportunity to provide feedback on the Commerce Commission's (Comcom) open letter dated 29 April 2021.
2. The following comments are made on behalf of the Major Gas Users Group (MGUG). MGUG was established in 2010 as an informal association of large industrial consumers of gas. MGUG considers that it provides a collective voice for consumers of gas to various regulatory work-streams and policy setting initiatives being undertaken by government and relevant regulatory agencies. This includes the processes administered by the Comcom under Part 4. MGUG actively engaged with the Commission in the last review of the Input Methodologies and in the subsequent process leading to the current Default Price Path.
3. The membership of MGUG includes:
 - Ballance Agri-Nutrients Ltd
 - Oji Fibre Solutions (NZ) Ltd
 - Fonterra Co-operative Group
 - New Zealand Steel Ltd
 - Refining NZ
 - New Zealand Sugar
 - Goodman Fielder
4. These industries are a significant part of New Zealand's economy, including; the primary industry export sector, in provision of energy security, and through import substitution assisting New Zealand's balance of payments. Their manufacturing base in New Zealand relies on a secure energy supply, which for natural gas includes secure and reliable gas transport (transmission and distribution). Collectively the group has invested significant long term capital in manufacturing facilities that consume about 30 PJ per annum of natural gas, or about 15% of the gas supplied to the market in New Zealand.
5. Nothing in these comments is confidential and some members may choose to make their own comments.

Emerging Issues

6. The current proposals for decarbonizing the New Zealand economy will impact the opportunities that gas provides to contribute to decarbonisation.
7. MGUG's main concern is that these proposals raise the risk that the gas pipeline infrastructure will be stranded as gas demand declines and the cost of shipping gas is impacted by low volumes. The viability of the pipeline assets will be jeopardised when they could be repurposed to carry low carbon, new energy technologies.
8. This decline in gas demand could potentially arise in the timeframes for next regulatory period for the gas Default Price Path (DPP), and within the timeframes for the next review of the Input Methodologies (IMs') which sets the rules for the DPP.
9. However the IM review will occur after the DPP process. We believe the Comcom should reconsider the timetable for the IM and DPP process.

Strategic Context

10. MGUG recognises the energy sector (including the subset governed by the Comcom), is facing a period of accelerated change that will impact all fuels and associated infrastructure as New Zealand moves to decarbonise the economy. This change is made complex by the timeframes proposed for achieving the target reductions, and the uncertainty around the pathways that could be followed for achieving those reductions (bans, emissions trading, government investment etc).
11. Nevertheless the government is clear that decisive action to reduce emissions is required. As energy intensive industries that deliver substantial wellbeing benefits to New Zealanders MGUG supports that direction and all our members are active participants and investors in seeking solutions to emission targets.
12. MGUG has participated in the consultation process for the Climate Change Commission Draft (CCC) advice in March of this year. MGUG recognises the enormity of the task the CCC has undertaken to provide its advice the government. The task is multi-dimensional, and sets the direction for fossil as well as renewable gas.

Timing of DPP Reset and IM Review

13. Given the strategic context we consider the Comcom should give thought to timing of the gas DPP reset and whether it should be realigned to ensure it meets its Part 4 purpose.
14. The Comcom notes that "both the gas DPP reset and the IM review present opportunities to review and adjust our regulations to ensure they remain fit for purpose in the changing context faced by the energy sector".

15. Our understanding of the relationship between IMs and DPP is that IMs underpin the price-quality paths and information disclosure requirements that regulated suppliers are subject to under Part 4; they are intended to have the purpose of promoting certainty for suppliers and consumers about the rules, requirements, and processes applying to regulation or proposed regulation.
16. In light of the consequences of the government's policy announcements for decarbonisation, direction of public policy on fossil fuels, and the speed of energy transition occurring within the next regulatory period we believe that ideally the IM review should be brought forward to precede the DPP setting (the DPP is scheduled to be completed by May 2022 while the IM isn't due to be completed until end of 2023).
17. Alternatively, the Commission might consider what elements of the IM review would be relevant to the DPP and proceed in accordance with the timetable.
18. The elements of the IM for review that appear to us to have been material since the last review in 2016 traverse all of the main areas of the IM including:
 - a. Cost allocation;
 - b. Asset Valuation;
 - c. Treatment of taxation; and
 - d. Cost of capital.
19. However in the context of the government's policies for decarbonisation direction is now required on asset life assessment, asset stranding, treatment of stranded assets in the Regulated Asset Base, and who pays for asset stranding risk.
20. We don't believe that discussion and resolution on these key topics should be delayed for a further two years if Comcom follows the proposed IM timetable. Ideally the DPP reset should have the benefit of the IM review or alternatively the Comcom should consider how these matters can be considered as part of the gas reset. We think it's important the Commission would consult on how it intends to undertake the review process, including what topics it will be considered as part of it.

Yours sincerely



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Secretariat for the Major Gas Users Group