

3 September 2021

New Zealand Commerce Commission
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Regulation Branch
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RE: Resetting default price-quality paths for gas pipeline businesses from 1 October 2022 Process and Issues paper - 4 August 2021

- 1.0 GasNet Limited (GasNet) thanks the NZ Commerce Commission (NZCC) for the opportunity to respond the 'Resetting default price-quality paths for gas pipeline businesses from 1 October 2022 Process and Issues paper - 4 August 2021' (Reset DPP3 Paper). GasNet also acknowledges the extension in time to make a submission.
- 2.0 GasNet is supportive of both the rationale for Reset DPP3 Paper and the resulting document provided for discussion.
- 3.0 GasNet suggests there a number of big picture matters which need to be firmed before the NZCC has the necessary guidance for consideration of a DPP2 style starting prices reset for DPP3. These include:
 - 3.1 Does the classical expression of a monopoly apply to gas distribution, parts of the services provided, or none in the current business context and the future envisaged by Government? Irrespective, is it equitably applied to all gas distribution entities captured by the definition?
 - 3.2 If the Climate Change Commission's advice to Government is correct, it suggests natural gas operates in a contestable energy market where electricity is a feasible alternative to gas irrespective of the natural gas market segment and thus end use. Surely this should at least need to be tested to determine where, if at all, natural gas distribution businesses could exert monopoly power?

- 3.3 Where the NZCC view the Commerce Act 1986 as not covering green gas “as a service that we regulate”¹ then the NZCC cannot fairly consider long term scenarios facing natural gas monopoly entities within 4 or 5 year chunks
- 3.4 The NZCC gives support to the Gas Infrastructure Future Working Group’s assessment of two scenarios for the gas sector – ‘wind-down’ and ‘repurpose’ while leaving the reader with the feeling that the latter is seen currently as at best speculative. Assuming both scenarios are being considered then is it not prudent for the regulatory guidance to be available to the gas market to incentivise both conveyance providers and consumers to make well informed choices. The NZCC indicates that it would “... need to consider whether preserving optionality for GPBs is within the scope of Part 4 regulation ...”²
- 3.5 The COVID-19 pandemic, now well in to its second year, has yet to impact strategically on business operating structure regarding location and duplicate resourcing needed to sustain a safe level of operation under sustained Alert Level 3-4 conditions. This appears absent from NZCC consideration in the Reset DPP3 Paper³.
- 3.6 The NZCC’s suggests its compliance timetable is under pressure and that major IM reviews are not practical to achieve in the period before its final decision on DPP3 needs to be released on 31 May 2022. GasNet suggests that in the prevailing circumstances, the compliance timeframe should be adjusted to allow for such “fundamental” review of the IMs.
- 4.0 In light of the above suggested big picture matters, is the NZCC’s “intent to retain approaches from the last gas DPP reset (DPP2) where they remain fit for purpose”⁴ too narrow due to legislative strictures? Would it be possible to consider reframing as ‘understand the business context (big picture matters) and then retain approaches from the last gas DPP reset (DPP2) where they remain fit for purpose; while creating new approaches as required’.
- 5.0 GasNet is concerned that the NZCC’s stated overarching objective in the context of the DPP3 “... that we are to promote the long-term benefit of consumers of natural gas pipeline services which includes consumers of natural gas ...”⁵ is directly in conflict with the context of big picture matters discussed above. Government legislation⁶ and stated timeline for change clearly indicates the demise of natural gas pipeline services, but the NZCC is not able to consider promoting the long-term benefit of consumers of green gas pipeline services which includes consumers of green gas!

¹ Reset DPP3 Paper at 3.42, page 32

² Reset DPP3 Paper at 3.50, page 34

³ Exception being Reset DPP3 Paper Attachment B at B49, page 70

⁴ Reset DPP3 Paper at X7, page 5

⁵ Reset DPP3 Paper at 2.6, page 15

⁶ Climate Change Response Act 2002



- 6.0 GasNet acknowledges the Commerce Act 1986 constraints on NZCC considerations as discussed in the Reset DPP3 Paper, but in these ‘exceptional circumstances’ is it not timely for the NZCC to engage with Government as to what amendments could be made to the Commerce Act 1986 to enable the NZCC to revise what and how it considers any DPP3 structure(s)? The gas sector has already signalled that in practice both the ‘wind-down’ and ‘repurpose’ scenarios must coalesce in a transitional period and thus both conveyance providers and consumers need to be incentivised to make well informed choices on a wide range of issues from safe network configurations to safe appliances.
- 7.0 GasNet offers some observations on NZCC commentary within Reset DPP3 Paper
- 7.1 In regard to Reset DPP3 at 5.8, page 44, GasNet concurs with the NZCC view and would suggest that AMP projections even to 4 or 5 years hence are equally problematic. GasNet is concerned at NZCC commentary around reconciliation of growth and seeking accelerated depreciation at Reset DPP3 Attachment B at B40, page 69 and Reset DPP3 Attachment D at D12, page 78. The AMPs have noted that there is uncertainty about the future but have chosen to run a ‘status-quo’ position at the time of their last update merely because the future only speculative at this time. Thus reconciliation is illogical as the given contexts are vastly different.
- 7.2 In regard to Reset DPP3 at 5.10.4, page 45, GasNet does not support capital contributions as a default position, while recognising that situations will occur where the economics of investment are not supported otherwise. The reason for this is simple: competition between existing conveyance providers to the consumer’s gate – electricity and LPG; and from the consumer’s gate – electricity, LPG, and to a lesser degree solar PV and wood. GasNet notes that the NZCC’s IM review in 2016 was cognisant of such factors at Reset DPP3 Attachment D at D9, page 77. Regarding NZCC comments at Reset DPP3 Attachment D at D14, page 79 around GasNet’s capital contribution policy, section 8.0 of that policy makes specific reference to conditions of free residential consumer connection.
- 7.3 In regard to Reset DPP3 at 5.19, page 47, GasNet supports in concept the option for reopeners generally and specifically as a result of future clarity in regard to climate change policy.
- 7.3 In regard to Reset DPP3 at 7.3-.4, page 55, GasNet is supportive of stakeholder workshops as a means to get issues better understood prior to provision of a draft decision in February 2022.
- 7.4 Approach to setting starting prices: given the statutory requirements placed on the NZCC, and thus limitations expressed by the NZCC on what it is allowed to consider, then the rollover starting prices for DPP3 would appear to be both appealing and a pragmatic way forward. In concert, a pure revenue cap may be a simple form of control.

- 7.5 A simple rollover may lead to excess profits: GasNet suggests that concern over insufficient profits is equally possible. More reasonably, the increased risks faced by conveyance providers would change what was considered excess profit moving forward.
- 7.6 Forecast opex and capex: GasNet has not formed a view on the Reset DPP3 Paper commentary at this time. It is reasonable to opt for greater simplicity, but it would be desirable to discuss with the context discussion at points 6.0 and 7.1 above.
- 7.7 Climate change policy uncertainty: GasNet favours a 4 year reset at this time, with the hope that increased information will emerge to better inform decision making at that time
- 7.8 Quality of service: GasNet agrees with the NZCC's current view

GasNet looked forward to contributing further to these issue and process discussions.

Regards

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