

31 July 2018

Matthew Lewer
Regulation Branch
Commerce Commission
(via email to regulation.branch@comcom.govt.nz)

Dear Matt,

Re: Open letter requesting feedback on recent customised price quality path processes –
Commerce Commission Paper dated 3 July 2018

1. This submission is on behalf of the of the Major Gas Users Group (MGUG). MGUG was established in 2010 as a consumer voice for the interests of a number of industrials who are major consumers of natural gas. Membership of MGUG includes:
 - Ballance Agri-Nutrients Ltd
 - Oji Fibre Solutions (NZ) Ltd
 - Fonterra Cooperative Group
 - New Zealand Steel Ltd
 - Refining NZ
2. The focus of this open letter from the Commission is the customised price-quality path application processes for electricity distribution businesses (EDBs). However the Commission also welcomes feedback that may be relevant to the CPP application processes for the gas sector.
3. The focus for MGUG's interest is around the Whitecliffs Re-Alignment project and the coastal erosion there that threatens the two gas pipelines owned by First Gas which pass through the area and deliver gas across the North Island. Apart from Ballance all MGUG members have industrial plants in various locations across the North Island and being major consumers of natural gas have a strong interest in ensuring this work proceeds within a timeframe that ensures minimal risk to security of gas supply.
4. As far as MGUG is aware this is the only matter that would be subject to a CPP application process in the gas sector. To that end MGUG have been in regular dialogue with First Gas to understand the extent and timeframes for the project, including how the project might be affected by the alternative options available for FG to undertake under Part 4 of the Commerce Act.
5. MGUG's expectation is that the project will be undertaken as a CPP. We have no reason to assume otherwise. However we do not have a clear view yet how the project will be executed and whether there are alternative options for undertaking the work, and if there are, whether these options will be considered as part of a CPP application. Furthermore MGUG has no clear idea for the timing of the work.

6. The Commission will recall the Maui pipeline disruption event in October 2011 that disrupted gas supply to our members and the wider region for around 5 days, at an estimated cost around \$NZ 200 million. This event crystallised the vulnerability to this asset, the concerns we have for security of supply and the need to ensure this realignment takes place in a timely fashion. MGUG have sought regular updates from First Gas to ensure FG fully understands MGUG's concern. At this stage the process for undertaking the CPP is probably the least well understood by MGUG.
7. Hence we make these responses to the areas listed by the Commission specifically with Whitecliffs in mind. We make these comments in Table form that follows the Commission attachment A:

Consideration of Alternatives	Whitecliff's project is a single-issue project. There may be alternative approaches to execution, each of which may have different implications for security, risk and cost. An obligation to report to stakeholders on the consideration of alternatives is imperative. Our experience to date is that First Gas has undertaken a good engagement process and remains committed to ensuring that engagement process continues.
Use of cost benefit analysis	The same comment applies as for Consideration of Alternatives. We would expect alternative approaches to be supported by appropriate cost benefit and risk analysis. As a single route to demand it is fundamental that alternative options are subjected to appropriate cost benefit analysis. We would expect First Gas to undertake that in any event.
Long term pricing impact	MGUG agrees with the comment that it is important to provide consumers with as much information as possible on the long term pricing impact, which should include any alternatives First Gas might consider for the allocation of costs.
Calculating revenue and pricing changes	We are unsure of the relevance of this point to the Whitecliffs project as we see it and will respond during the cross submission process.
Delivery and accountability of CPP path commitments	We agree with the principles in Points 1 and 2 under Feedback Requested. We agree an applicant is accountable for delivering on the commitments set out in its CPP proposal. We would comment that FG has been proactive in providing appropriate information on the project and the nature of the task. We note though that actual project timing is yet to be determined.
Link between price and quality	We're unsure how we should answer this in the context of Whitecliff's. The DPP process has introduced a new Major Interruption quality standard (no Major Interruption) which we consider establishes greater accountability anyway. If asset criticality is inherent in any choices FG make then we think it appropriate that these should be identified so that they are linked to accountability for the increased revenue.

Consumer consultation	This criterion appears more focussed on a context where there are large numbers of consumers who may not be engaged in the process. With respect to Whitecliffs we consider FG's consultation process to date to have been meaningful.
Verification	Given the nature of the Whitecliffs project and the risks involved (including the quality standard) we think the Verification process would be beneficial for all parties. It would be important however to ensure the role of the verifier is well defined up front as part of undertaking the process. Further engagement with affected parties such as MGUG could be helpful in that regard.
Defining and applying proportionate scrutiny	We agree with the Commission that it will be difficult to provide a definitive codified definition. We also agree that the Commission should take care not to fetter its discretion or restrict its ability to make an assessment. Ultimately however that will come down to the unique set of circumstances for each proposal – we think in the context of Whitecliffs that appropriate consultation would be the way to ensure an appropriate balance between providing certainty and retaining flexibility in the process of scrutiny.

8. Nothing in the submission is confidential.

Yours sincerely



Richard Hale/Len Houwers
Hale & Twomey Ltd/Arete Consulting Ltd
Secretariat for the Major Gas Users Group