



GasNet Limited
8 Cooks Street
PO Box 7149
Wanganui 4541

Telephone; (06) 349 2050
Fax; (06) 349 0135
www.gasnet.co.nz

10 August 2009

Louise Allsopp
Chief Advisor
Networks Performance Branch
Commerce Commission
PO Box 2351
WELLINGTON

Dear Madam

Submission on the Setting of the Default price-Quality Path for Suppliers of Gas Pipeline Services Process Paper

1. A revised regulatory regime for gas pipeline businesses (GPBs) came into effect on 14 October 2008 under a new Part 4 of the Commerce Act 1986 (the Act). The Commerce Commission (the Commission) has released a Process Paper: *Default/Customised Price-Quality Regulation, Setting of the Default Price-Quality Path for Suppliers of Gas Pipeline Services, Process Paper, 24 July 2009* (the Process Paper).seeking views on its proposed process for setting Default Price-Quality Paths (DPPs) for GPBs.
2. This submission reflects the views of GasNet on the Process Paper. GasNet is a limited liability company owned by Wanganui Gas Limited (WGL) which owns and operates gas networks in Wanganui, Marton, Bulls, Flockhouse and Waitotara located in the central North Island. The Wanganui Gas Company Limited was formed as a private enterprise company in 1879. The business was subsequently acquired by the then Wanganui Borough Council in 1902. Wanganui Gas continued to operate as a Council department until it was formed into a public limited liability company in December 1992. From 1 July 2008 the company structure was changed such that the parent company WGL owns 100% of the two new operating entities, GasNet Limited and Energy Direct NZ Limited. Each entity has its own separate Board of Directors, each with its own governance, Statement of Intent and Board meetings.

3. GasNet is the smallest GPB that is currently required to disclose information under the Gas (Information Disclosure) Regulations 1997. GasNet's combined distribution systems are 366 kilometres long, with approximately 10,300 connected consumers. In 2008 GasNet conveyed 1,034,957 GJ of natural gas. To put this into perspective, of the total gas distribution sector, GasNet comprises just 2.3% of total pipeline length, 4.0% of total connected consumers and 3.2% of total gas delivered.¹ These percentages are smaller again when the gas distribution and transmission sectors are combined.
4. As submitted in our 16 February 2009 submission on the Regulatory Provisions of the Act, and again in our 7 August 2009 submission on the Input Methodologies, GasNet's primary concern is to work with the Commission to ensure that the regulatory provisions of the new Part 4 of the Act are implemented in such a way that does not impose regulatory costs which outweigh any benefits to consumers. As noted above, GasNet is extremely small in the context of the gas pipeline sector, and the regulatory compliance burden under the new Part 4 is likely to be significantly greater than that we already incur.
5. The Gas Control Inquiry undertaken in 2003 and 2004 concluded that GasNet should not be controlled. That is, the benefits of regulatory control were not believed to exceed the costs. GasNet is subject to information disclosure regulation and will continue to be under the new Act. GasNet will also be subject to DPP regulation from 1 July 2010. We are disappointed that these additional provisions are to be applied to our business, particularly as it was deemed unnecessary following the Gas Control Inquiry. We therefore believe that it is important for the Commission to carefully consider the cost implications for our business as it develops its new provisions for GPBs.
6. In the following paragraphs we respond to the proposed process for setting a DPP for GPBs.

Setting a DPP for GPBs

Timing

7. We support the view that a DPP will be set as soon as practicable after 1 July 2010, not necessarily at 1 July 2010, as could be possibly interpreted from section 55D of the Act. We note that the input methodology determinations will be made at the earliest by 1 July 2010 and possibly not until 31 December 2010, and therefore, given the DPP must be consistent with the input methodologies it will not be possible to implement a DPP at this time. We also note that the Commission has initiated a major review of the information disclosure requirements to apply to GPBs (with the publication of a Discussion Paper on 29 July 2009). This consultation process is likely to lead to changes to the information

¹ Derived from 2008 Gazetted Information Disclosure data.

disclosed by GPBs, and these changes will also be dependent upon the input methodology determinations. It is likely therefore that the outcomes of the information disclosure review will generate new information about GPB price and quality performance which could better inform the DPP setting process.

8. We also note that the DPP is intended to apply to Wanganui Gas, the uncontrolled portion of Vector's distribution GPB, Vector's gas transmission business and Maui Development Limited's gas transmission business. The GPB of Powerco and the controlled portion of Vector's GPB are currently subject to a Gas Control Order which is due to expire on 1 July 2012 (with provision for it to expire early under the Act). When the Order expires, these GPBs will transition to the DPP.
9. As noted above we acknowledge and support the view that it would not be possible to determine a DPP to apply at 1 July 2010 given the input methodology determinations (if achieved by that date) will not have been implemented in practice by GPBs. We are however concerned that the proposed timetable in the Process Paper suggests that a Draft Decision on the DPP will be published in October 2010, just four months after the input methodologies will be available (at the earliest). We believe further consideration needs to be given to delaying the consultation process to at least later in the 2010/2011 financial year.
10. A draft determination for a DPP must include in it the quality standards that will apply, the opening prices, the rates of change etc. We submit that it is not possible to determine these within the timeframe available because of the other work streams which need to be completed in advance. In addition GPBs will need to prepare the required information, consistent with these other work streams in order that the DPP determination is based on an appropriate dataset.
11. The suggested deadlines are therefore unnecessarily tight. It is not clear why the draft decision needs to be published in October 2010, as suggested in the Process Paper. The pricing year for gas distribution businesses commences on 1 October. The draft decision is proposed to be published a year before pricing changes could be introduced, with a draft determination nine months before pricing changes could be introduced (in December 2010). We therefore do not support the proposed timetable as we believe it does not allow sufficient time for *"the Commission to fully consider the application of relevant input methodologies; to obtain a more comprehensive data set from regulated suppliers; to undertake better analysis of that data; and to give due consideration to sector-specific issues"* as suggested in the Process Paper.
12. It is unclear from the Process Paper how the Commission reaches its view that a DPP should apply to GPBs from 1 July 2011. Given the Order is due to expire in 2012, and given the implementation challenges associated with introducing a new information disclosure regime (as noted in the Information Disclosure Discussion Paper), we suggest the Commission gives further consideration to delaying the imposition of the DPP until 1 July 2012, when the Order expires. Section 55P(2) of the Act constrains annual average price increases for GPBs to the CPI from 1 January 2008. This applies until a DPP determination is made. Powerco and the controlled portion of Vector are covered by the Order over this period. We suggest therefore that there are sufficient constraints in place

to allow the Commission the time it needs to develop and implement a robust DPP to take effect from 1 July 2012.

Proposed Process

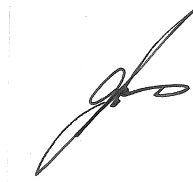
13. We also suggest that the Commission consider an alternative process to that presented in the Process Paper. Due to the relatively small number of affected parties, we believe that much more efficient consultation and development of a DPP could be achieved by discussions between the Commission and interested parties. We do not support an approach which involves the Commission forming preliminary views and presenting them in a lengthy discussion document, to be responded to by lengthy written submissions. We do not believe this is a cost effective approach for the purpose of setting a DPP for GPBs.

14. In our view it will be far more effective if the Commission engages with the industry directly to discuss the options and the issues that need to be addressed before forming its preliminary views. This could occur in a workshop attended by all relevant parties and the Commission staff (and consultants) responsible for developing the DPP. It is envisaged the outcome of this could be a well defined set of work streams leading to a draft determination for consultation. These work streams could be contributed to by industry participants where relevant (such as in the definition and measurement of quality standards).

General

We thank you for the opportunity to provide input into the proposed process for setting a DPP for GPBs and trust you will seriously consider our suggested changes to the proposed process.

Yours faithfully

A handwritten signature in black ink, appearing to be 'Geoff Evans', written over a faint dotted line.

Geoff Evans
General Manager