



Maui Development Limited
PO Box 23039
Wellington 6140

21 December 2012

Telephone: (04) 460 2548
Fax: (04) 460 2549

commercial.operator@mauipipeline.co.nz

Mr. John McLaren
Chief Adviser
Regulation Branch
Commerce Commission
PO Box 2351
Wellington 6140

Dear John,

Please regard this letter as our cross-submission to the Commerce Commission ("the Commission") on the Reasons Paper for "Revised Draft Decision on the Initial Default Price-Quality Paths for Gas Pipeline Services", and on the accompanying Consultation Draft of a Gas Transmission DPP Determination 2013. Both those documents are dated 24 October 2012. In this letter we will use MDL to refer to the Gas Transmission Business (GTB) of Maui Development Limited.

General concerns

1. We note that Vector shares our views on the lack of appropriateness for GTBs of the Commission's draft DPP decision. We support Vector's statements: "that when 100% of the gas transmission sector would need to apply for a CPP to meet their own capex needs, it is difficult to sustain the view the current DPP settings are appropriate. The Commission's approach effectively disincentivises DPPs, which in our view is contrary to the intent of the Act."

Capital expenditure

2. If a percentage cap is to be used for increases in capex, then we support GasNet's proposal to have a higher percentage cap for non-network capex than for network capex.
3. More importantly, we support Vector's statement that "stay in business" capex should not be regarded as excessive, and that depreciation (over a multi-year period) should be a good proxy for a reasonable level of capex (over that same period). We believe this principle should be applicable to both network and non-network capex.
4. We also want to emphasize the caveat from the CEG report, submitted by Vector, that: "the Commission's proposal does not distinguish between new and replacement capital expenditure, and by failing to do so is likely to require a customised price path for businesses to get "stay in business" capex plans approved by the Commission. A default price path that cannot achieve even this must be regarded as very ineffective."

Operating expenditure

5. We support the submission by GasNet that opex projections for them and for MDL do not take account of the increase in regulatory compliance costs that result from the DPP and the Information Disclosure determinations. We have not made an independent assessment of that increase, but we expect that for MDL it will be at least as large as the costs in Figure 3 of the GasNet submission.

6. We appreciate the comments from MGUG on compressor fuel for MDL. As we submitted already, we propose the optimal treatment for compressor fuel is to reclassify it as a recoverable cost. In the alternative, our use of compressor fuel over the last four calendar years has already been provided to the Commission in response to the section 53ZD notice. We will soon be able to provide the Commission with updates over the 2012 calendar year and with recent pricing information as well.

Compliance

7. In light of Vector's comments, we trust the Commission will amend the definition for "emergency" to reflect that not every pipeline related incident is also an emergency.
8. We support the submission from Powerco for "having one annual compliance statement per year that reports compliance with the price path and quality path at the same time." We believe this would be the most efficient approach for dealing with compliance. In the alternative, we maintain our earlier submission that an audit requirement for a separate quality compliance statement is excessive.

Quality, innovation and incentives

9. We support the comments from Genesis and Contact about the insufficient emphasis on quality standards and innovation. We acknowledge that it is difficult to find objective and suitable measures for those concepts that could be used for a GTB. The currently proposed "response time to emergencies" is a simple and convenient quality measure, but it is probably not the most meaningful for consumers. We too would have appreciated more efforts to come up with relevant and meaningful standards.
10. The Commission has focused practically all of its efforts on price control. As a result we support the statement from Genesis Energy: "that without more meaningful quality standards in place, there is risk that the proposed price controls may incentivise reductions in expenditure to the detriment of quality standards and necessary future investment in gas infrastructure."
11. Genesis also referred to the 2011 Maui Pipeline Outage to "highlight the importance of reliability and quality standards". This was also supported by a statement from Contact: "that reliability, safety and response time to incidents and outages are critical and that a failure to meet reasonable objective standards should have a financial cost to the relevant supplier." Even without the prospect of any penalties we agree that safety and reliability are primary concerns to us.
12. In this light we note that the major projects in our capex forecasts, i.e. the White Cliffs pipeline realignment, the land stability measurement and monitoring systems, the land stabilisation works, and to some degree even the OATIS replacement, are all intended to ensure the continued reliability of our operations. The Commission's draft decision to effectively disallow capex for all those projects runs counter to the important quality standards that we and our customers want to pursue.
13. We also note and sympathize with the statements made by Contact to encourage innovation. Any efforts in that regard have been left out of the current DPP approach. The proposed DPP is most likely to result in a lock-in of the status quo at GTBs. The Commission's draft decision provides zero incentives for any investment that does not allow immediate financial payback to the regulated supplier within the regulatory period.

14. We endorse the comments on the importance of longer-term and better incentives made by Powerco:
 - 14.1. instead of looking at devices such as opex partial productivity factors, “the Commission’s resources would be better applied to the development of a rolling incentive scheme to include in the DPP”; and
 - 14.2. “We continue to believe a capex incentive mechanism would be a substantial improvement to both the electricity and gas DPP regimes and encourage the Commission to begin work on this.”

Closing remarks

15. We have appreciated the opportunity to provide this cross-submission. We note the short time frame the Commission has until finalising its decisions. Nevertheless, we are willing to work with Commission staff in the interim to make improvements where possible. For any such efforts, or questions, or clarifications please do not hesitate to contact us.

Yours sincerely,

A handwritten signature in blue ink that reads "D. Gray". The signature is stylized with a large, looped initial "D" and a cursive "Gray".

General Manager, Commercial Operator
Maui Development Limited