

31 March 2023

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By e-mail only: [REDACTED]

cc All suppliers of gas distribution services as regulated under Part 4 of the Commerce Act 1986

Tēnā koe Richard,

## **Response to Vector's request for an exemption from an Asset Management Plan disclosure requirement under the Gas Distribution Information Disclosure Determination 2012**

1. We write in response to a letter from Vector Limited (**Vector**)<sup>1</sup> that requested the Commerce Commission (the **Commission**) grant it an exemption from disclosing an Asset Management Plan (**AMP**), as required under clause 2.6.3(2) of the Gas Distribution Information Disclosure Determination 2012 (the **ID determination**),<sup>2</sup> in respect of the disclosure for the current Default Price-Quality Path (**DPP**) regulatory period (**DPP3**).
2. Vector requested an exemption to disclose an AMP update, instead of a full AMP, for the AMP disclosure due by 30 June 2024.<sup>34</sup> Vector has requested this because, due to the length of DPP3, the ID determination requires Vector to complete and disclose an AMP in consecutive years.
3. We have considered whether an exemption would be appropriate for the other gas pipeline businesses (**GPBs**) subject to information disclosure (**ID**), as the requirement to disclose an AMP in consecutive years is not specific to Vector.

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<sup>1</sup> Letter from Vector Limited to Commerce Commission, "AMP under a four-year Default Price-Quality path", dated 16 November 2022.

<sup>2</sup> GDB ID determination 2012, consolidated April 2018. Found [here](#) on our website.

<sup>3</sup> An AMP is sometimes referred to as a full AMP.

<sup>4</sup> This AMP is due before the start of disclosure year 2025, which is 1 July 2024 for Vector.

4. The exemption outlined in this letter, therefore, applies to all gas distribution businesses (**GDBs**) regulated by the ID determination.<sup>5</sup> A separate exemption notice has been issued to First Gas for its gas transmission business (**GTB**).<sup>6</sup>

### Background

5. Under clause 2.6.1 of the ID determination, GDBs are required to complete and publicly disclose an AMP before the start of each disclosure year. However, in some circumstances, GDBs may elect to complete an AMP update instead of an AMP.<sup>7</sup>
6. The ID determination requires that each GDB disclose at least two AMPs during a DPP regulatory period. The timing of the two mandatory AMPs within a DPP regulatory period, outlined in clauses 2.6.3(1) and 2.6.3(2) of the ID determination, are tied to the length of that DPP regulatory period.<sup>8</sup>
7. The DPP3 regulatory period is from 1 October 2022 to 30 September 2026. Due to the regulatory period being four years instead of five, the timing of the second mandatory AMP disclosure during DPP3 differs from previous DPPs.
8. The disclosure year for GDBs starts on either 1 July or 1 October each year.<sup>9</sup> During DPP3, the ID determination requires GDBs to disclose an AMP before the start of disclosure year 2024 and disclosure year 2025, as illustrated in the table below.

	Before DY 2024	Before DY 2025	Before DY 2026	Before DY 2027
AMP disclosures due by	30-Jun-23	30-Jun-24	30-Jun-25	30-Jun-26
	30-Sep-23	30-Sep-24	30-Sep-25	30-Sep-26
Type of AMP disclosure	✓	✓	✗	✗

✓ = AMP required ✗ = AMP update allowed

<sup>5</sup> The other GDBs are First Gas Limited (**First Gas**), GasNet Limited (**GasNet**), and Powerco Limited (**Powerco**).

<sup>6</sup> *Gas Transmission ID Exemption – First Gas Limited – Asset Management Plans during DPP3*, dated 31 March 2023.

<sup>7</sup> Clause 2.6.3, ID determination.

<sup>8</sup> By clause 2.6.3 of the ID determination, a GDB may elect to submit an AMP update before a disclosure year, provided that start of the disclosure year is not: between 6 (inclusive) and 18 months after the start of the DPP regulatory period; or between 18 (inclusive) and 30 months before the start of the next DPP regulatory period.

<sup>9</sup> The disclosure years for GDBs are 1 July – 30 June for GasNet and Vector; and 1 Oct – 30 Sep for First Gas and Powerco.

### *Exemption request*

9. In anticipation of the upcoming deadline of 30 June 2024, Vector sought an exemption to disclose an AMP update, instead of the AMP required before disclosure year 2025.
10. Vector's request is made on the basis that the current four-year regulatory period requires it to complete and publicly disclose two consecutive AMPs due by 30 June 2023 and 30 June 2024.<sup>10</sup> Vector considers that completing two AMPs over two years would add significant administrative burden for no additional benefit.

### **Conditional exemption granted**

11. By this notice, using the exemption powers under clause 2.11.1(1) of the ID determination, the Commission grants all GDBs an exemption from clause 2.6.3(2) of the ID determination in respect of DPP3, on the following condition:
  - 11.1 completion and public disclosure of an AMP for the AMP disclosure due before the start of disclosure year 2026.
12. In effect, this conditional exemption defers the mandatory AMP disclosure due before the start of the disclosure year 2025, by one year. The table below illustrates the revised deadlines for required AMPs as amended by the exemption.

	Before DY 2024	Before DY 2025	Before DY 2026	Before DY 2027
<b>AMP disclosures due by</b>	30-Jun-23 30-Sep-23	30-Jun-24 30-Sep-24	30-Jun-25 30-Sep-25	30-Jun-26 30-Sep-26
<b>Type of AMP disclosure (with exemption)</b>	✓	✗	✓	✗

✓ = AMP required ✗ = AMP update allowed

### *Reasons for granting the exemption*

13. In line with Vector's exemption request, we have concluded that completing two AMPs in consecutive years during the same regulatory period will likely create greater administrative burden for GDBs, with limited additional benefit. We consider the overall burden of completing AMPs in consecutive years is likely to outweigh any potential benefit to interested persons, particularly since AMP information does not typically change significantly over the course of a single year.

<sup>10</sup> Clauses 2.6.3(1) and 2.6.3(2), ID determination.

14. However, we consider granting Vector's exemption request without condition may result in insufficient information for interested persons throughout DPP3. If the exemption was granted as requested, Vector would be required to disclose only one AMP during DPP3 (before disclosure year 2024) while retaining the option to provide an AMP update in the following three years. If Vector decided to disclose an AMP update in those three years, we consider it unlikely that sufficient information would be readily available to interested persons to assess whether the purpose of Part 4 of the Commerce Act 1986 is being met,<sup>11</sup> which would result in the purpose of ID not being met.<sup>12</sup>
15. We consider it appropriate to grant a conditional exemption to Vector that requires the disclosure of a second AMP during DPP3 (due before disclosure year 2026) for the following reasons:
  - 15.1 the exemption relieves Vector from completing an AMP in consecutive years, while allowing it to disclose an AMP update for the disclosures due before disclosure year 2025 and disclosure year 2027;
  - 15.2 an AMP before disclosure year 2026, compared to disclosure year 2025, will be more useful for the Commission as an input into determining the next DPP for GPBs; and
  - 15.3 we have considered the impact of the exemption on the purpose of information disclosure under section 53A of the Commerce Act 1986 and have concluded that the purpose will still be met if this exemption is granted due to the fact that:
    - 15.3.1 Vector will be required to disclose two AMPs during DPP3, which is the same number of AMPs that the ID determination requires during a DPP regulatory period; and
    - 15.3.2 an AMP in alternating years during DPP3, compared to consecutive AMPs at the start of DPP3, is potentially more useful for interested persons as AMPs typically do not significantly change year-to-year.
16. We proposed the same conditional exemption to GasNet, First Gas, and Powerco. All three GDBs confirmed acceptance of the proposal.
17. First Gas operates a GTB subject to the same AMP obligations as the GDBs, set out in the Gas Transmission Information Disclosure Determination 2012. As mentioned in paragraph 4, a separate exemption notice has been issued to align the timing of First Gas' mandatory AMP disclosures for its GTB.<sup>13</sup>

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<sup>11</sup> Section 52A, Commerce Act 1986.

<sup>12</sup> Section 53A, Commerce Act 1986.

<sup>13</sup> *Gas Transmission ID Exemption – First Gas Limited – Asset Management Plans during DPP3*, dated 31 March 2023.

**Further information**

18. This exemption may be revoked or further amended by the Commission at any time in accordance with clause 2.11.1(2) of the ID determination.
19. A copy of this exemption response letter will be published on the Commission's website.
20. If you have any questions regarding this matter, please contact Rhys Williams at [infrastructure.regulation@comcom.govt.nz](mailto:infrastructure.regulation@comcom.govt.nz).

Nāku iti noa, nā



Vhari McWha  
**Associate Commissioner**