

6 December 2007

Commerce Act Review
Minister of Economic Development
PO Box 1473
WELLINGTON

Dear Sir

Submission on Appendix B of the Cabinet papers on the Review of Regulatory Control Provisions under the Commerce Act 1986

Introduction

In its submission on the "Review of Regulatory Control Provisions under the Commerce Act 1986" consultation paper, Gas Industry Company Limited (Gas Industry Co) commented on the need for any input methodology to recognise costs imposed as a result of gas governance arrangements. Such arrangements could be in the form of rules or regulations promulgated under Part 4A of the Gas Act, or non-regulated contractual arrangements, or voluntary codes. In that regard, we suggested that a minor change to section 57CA(2) of the Commerce Act could provide that, in addition to the costs arising from rules and regulations, there could be a pass through of costs of industry arrangements (contractual or voluntary) which had been recommended to, and accepted by, the Minister of Energy.

You may not have considered that the suggested change was appropriate, but there was an important principle underlying our suggestion which we wish to draw your attention to again.

As the current "industry body" under Part 4A of the Gas Act, Gas Industry Co makes recommendations to the Minister of Energy on a wide range of matters which are designed to deliver the Gas Act and Government Policy Statement (GPS) objectives. For example, we are currently working on recommendations in relation to transmission access¹ which, if put into effect, would set minimum terms of access to transmission pipelines. These will set quality standards by requiring that certain services be offered, defining the core requirements of those services, and specifying the maximum response times of related processes.

It is expected that Gas Industry Co's activities will increasingly set the minimum quality standards for a range of services in the gas industry including gas distribution services,

¹ See Gas Industry Co's Transmission Access Framework Statement of Proposal, October 2007, available at the Gas Industry Co website: www.gasindustry.co.nz.

reconciliation services, metering services and contingency management. Gas Industry Co considers that imposition of quality standards have cost consequences that need to be provided for in any input methodology. The one aspect of service which Gas Industry Co is not addressing at present is price. So there is an apparent disconnect between quality standards – set by Gas Industry Co – and pricing arrangements – possibly subject to Commerce Commission action.

Relationship of quality standards and cost of service

The proposed changes to the Commerce Act described in the Cabinet papers already acknowledge the strong linkage between price and quality standards through the “price-quality path” terminology used. Gas Industry Co considers that it would be a small, but important, step to formally acknowledge this connection by requiring that minimum quality standards set by Gas Industry Co should be a necessary consideration in any input methodology adopted by the Commerce Commission. This would give assurance to consumers that incentive regulation or price controls proposed by the Commission will not compromise minimum quality standards, and to investors that the legitimate costs of meeting these minimum standards will be recognised.

Accordingly, in relation to the detailed specifications set out in Appendix B of the cabinet papers, Gas Industry Co suggests that an additional item should be included under item E Input methodologies, being:


“Any methodology adopted by the Commission will allow for the recovery of efficient costs incurred in meeting minimum quality standards set by a regulatory body, and enforced by means of regulation, contract, or voluntary arrangement.”

Concluding Remarks

Gas Industry Co believes the changes to the Commerce Act recommended in the Cabinet papers represent a significant improvement in both the strength and flexibility of the regulatory framework.

We would be happy to discuss our comments with your staff if required.

Yours faithfully

PP 
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SENIOR ADVISER PIPELINES

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