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Dear Paul

Options for Amending Allocation and Reconciliation Arrangements

Genesis Power Limited trading as Genesis Energy welcomes the opportunity to provide comments to the Gas Industry Company on the discussion paper entitled 'Options for Amending Allocation and Reconciliation Arrangements' dated June 2006.

Genesis Energy is supportive of the proposals in this discussion paper. As a general comment, Genesis Energy is heartened by the Gas Industry Company bringing together in one paper its preferred framework (be it industry arrangement or a heavier-handed regulatory or rules-based approach) within which the issues will be addressed. It is, in Genesis Energy's view, important that industry participants see the Gas Industry Company's analysis of the appropriate framework in the same context as the analysis of the issues given the evident linkages between what is to be implemented and how it is to be implemented.

In essence, Genesis Energy considers that there are certain fundamental elements to the overall architecture of the gas industry that are best placed in rules. The allocation and reconciliation arrangement is one of these fundamental elements. In Genesis Energy's view, in this instance, rules are more likely to deliver on the objectives of the Gas Act and the Government Policy Statement and will provide greater certainty and lower the overall commercial risk profile of the industry. This in turn will provide end-consumers with greater confidence in gas industry processes. Genesis Energy looks forward to the Gas Industry Company's cost-benefit analysis in the next consultation paper on this issue.

Having said that, Genesis Energy does have some concerns regarding the process surrounding the delivery of its consultation paper. In particular, these

concerns relate to the absence of consideration of this paper by an appropriate working group, and the timeframe for responses.

With respect to the former, Genesis Energy recognises that there is a balance to be struck between the amount of effort that the Gas Industry Company puts into an issue and the resources that industry participants can bring to bear in responding. Genesis Energy contends that in general, it is more appropriate for the industry to hold the resource, rather than the Gas Industry Company. However, having said that, Genesis Energy considers that the Gas Industry Company should give more consideration, where necessary, to the tangible benefits from the consideration of draft consultation papers by an appropriate working group.¹ These benefits relate to the direct application of industry expertise, industry buy-in to the issues and socialisation of them within participant's organisations,² and the containment of consultancy costs.

Finally, with respect to timing, Genesis Energy notes that the release of two substantial consultation papers with the same short timeframe for the delivery of responses (3 ½ weeks) has constrained its ability to engage the Gas Industry Company in the level of detail that it would have preferred. While Genesis Energy recognises that the delivery on the Gas Industry Company's workplan by the specified deadlines is desirable, this objective should not over-ride the need to ensure that its analysis is robust and sustainable in the longer term.

Genesis Energy's responses to the specific questions posed in the consultation paper are attached to this letter as Appendix One.

Genesis Energy is happy to discuss further any aspect of this submission with the Gas Industry Company.

Yours sincerely



John A Carnegie
Regulatory Affairs Manager
Genesis Energy

¹ Genesis Energy notes that with the disestablishment of the Switching and Registry Working Group that the Gas Industry Company has no specific retail market working group to undertake this function.

² Thereby avoiding the prospect that industry participants are 'surprised' by the emergence of a consultation paper and providing participants with the ability to better marshal their resources in order to respond to them effectively.

Appendix One: Responses to Specific Questions

QUESTION	COMMENT
<p>Q1 Do you agree that it is sensible to divide the issues (with the downstream and upstream allocation arrangements) into short-term and long-term issues and to advance the short-term issues ahead of the long-term ones?</p>	<p>On the face of it, yes. Genesis Energy sees this as a useful analytical tool to 'ear-mark' some issues for more rapid progression and resolution than others.</p> <p>However, having said that, this analytical approach raises a number of issues. For example:</p> <ol style="list-style-type: none"> 1. on what basis the Gas Industry Company has determined an issue to be short or long-term? Is it based on criticality/importance or on the length of time to progress the issue? 2. what is short or long-term? For example, has the Gas Industry Company intended to resolve those issues it expects to be of relevance over the next year, or two years, or three years? 3. how does the Gas Industry Company know with confidence that it has appropriately determined the full range of short and long-term issues? <p>The approach outlined in the consultation paper while not explicitly addressing these questions, simply appears to have made a distinction based on ease of fix. To this extent, Genesis Energy understands that the solutions for the issues ear-marked for fixing' will be enduring, irrespective of the nature of outcomes implemented from the remainder of the broader issues that are being worked on simultaneously by the Gas Industry Company in other workstreams.</p> <p>While 'biting off what you can, early' is an acceptable strategy to progress issues and will get early runs on the board for the Gas Industry Company, Genesis Energy would like to point out the risk that the Gas Industry Company may end up fixing the fixes. This risk can emerge from two sources. These being:</p> <ol style="list-style-type: none"> 1. solutions in other workstreams over-riding or displacing the early fix that has been put in place; and/or 2. the absence of a clear and well articulated long term vision within which the early fixes are being made. In other words, while easy to fix, it may transpire further down the path that either the right solution was not implemented, or the wrong problem was fixed (without a clear strategic direction, any path will take you there). <p>Neither of these risks is insurmountable. However, the Gas Industry Company needs to be mindful of them and carefully manage its work to avoid them eventuating.</p>

QUESTION	COMMENT
<p>Q2 Do you agree that compliance with existing arrangements for downstream allocation is poor?</p>	<p>Yes. Genesis Energy considers that there are three main reasons as to why compliance has been limited:</p> <ol style="list-style-type: none"> 1. The Reconciliation Code has not evolved with the industry and, has in fact, remained unchanged since initial publication; 2. In general, compliance with the Reconciliation Code has been reduced due to the limitations of enforcing a voluntary code; and 3. The lack of transparency surrounding allocation methodology and other participant information. <p>In essence, while the Reconciliation Code may, at its inception have been 'fit for purpose' it is no longer and it is wholly appropriate that its on-going efficacy is being assessed.</p>
<p>Q3 Do you agree that governance arrangements (e.g. code modification processes, dispute resolution processes) are not working effectively? Please provide any specific examples that demonstrate your view.</p>	<p>Genesis Energy agrees that the current governance arrangements are not working as effectively as they could. For example, Genesis Energy contends that the Allocation Agent does not have sufficient backing to enforce the clauses contained in the Reconciliation Code.</p> <p>An example of this is where a TOU site, whose consumption was approximately 10% of the total gas take at the gate, switched out from Genesis Energy to another retailer. Once the site switched out Genesis Energy's allocated volumes did not represent the 10% drop in load. Although Genesis Energy raised this issue on numerous occasions with the Allocation Agent, he was unable to gain access to the requested information, to investigate why the new retailer was under submitting consumption. After direct dealings with the other retailer the problem was eventually fixed going forward. However, Genesis Energy is still awaiting a wash-up of consumption for the misallocated months. If the Allocation Agent has greater enforcement powers the issue would have been resolved.</p> <p>This example is indicative of the additional transaction costs faced by industry participants as a result of the current operation of the Reconciliation Code.</p>
<p>Q4 Do substantial difficulties arise as a result of the need for all shippers at a gate station to agree who to appoint as the allocation agent?</p>	<p>Difficulties have arisen in the past. However, as there is only one party offering Allocation Services at the moment it is not currently an issue but it has the potential to become one again in the future.</p> <p>One of the concerns regarding multiple parties offering Allocation Services is that it becomes more difficult to maintain consistency of allocation methodology with the various agents and assurance that any concerns surrounding confidentiality are mitigated (for example, a previous Allocation Agent was employed by a company who held interests in transmission, distribution and retail).</p>

QUESTION	COMMENT
<p>Q5 Do you agree that the Gas Industry Co should implement a regime where the Gas Industry Co becomes the single industry body responsible for appointing an allocation agent (or allocation agents)?</p>	<p>Yes. However, while Genesis Energy agrees with this proposition, it is critical that industry participants are closely involved in defining the criteria and process for selection, as well as the eventual appointment. To this extent, Genesis Energy contends that the Gas Industry Company should essentially act as the industry’s appointment agent.</p> <p>Any selection and/or appointment process should ensure that:</p> <ol style="list-style-type: none"> 1. There is a clear prescription for the appointment of an Allocation Agent/Agents; 2. That one of the over-riding criteria of such an appointment is that the Allocation Agent be independent to any gas industry participant; 3. A high level of accountability be placed on the Allocation Agent/s; and 4. Costs be kept to a minimum. <p>We recognise that the specific details of the appointment and accountability regime are yet to be worked through. As a general point of principle, given the central role of the Allocation Agent and the potentially significant value implications, Genesis Energy would expect clear and strong enforceable rights against the Allocation Agent, and strong accountability back to industry participants.</p>
<p>Q6 Does the use of the “difference” allocation method and the resulting implications for the allocation of UFG variations create a substantial problem in the industry?</p>	<p>Yes. The following factors contribute to the problems associated with difference allocation:</p> <ol style="list-style-type: none"> 1. Lack of standardised file formats and data requirements; 2. Varying estimation routines between retailers; 3. Irregular updating, if any, of loss factors across distribution networks; 4. Lack of compliance by participants; and 5. Lack of visibility of processes and data.
<p>Q7 If there are problems with the allocation of UFG variations, is working towards mandatory global allocation an appropriate response for the Gas Industry Co?</p>	<p>Yes. Genesis Energy looks forward to being able to comment on the details of the Gas Industry Company’s suggested “global” methodology. In particular, the specifics of any ‘global’ method will need to ensure that there is sufficient disincentive for participants to under-submit.</p> <p>In terms of one specific comment, Genesis Energy notes that section 8.12 of the discussion paper seems to suggest that moving to ‘global’ may be affected by retailers requiring time to adjust their systems. Given that Genesis Energy has the largest incumbency, it can unequivocally state that such a comment does not relate to its systems and would encourage the Gas Industry Company to move this issue forward as fast as possible.</p>

QUESTION	COMMENT
<p>Q8 If global allocation is not made mandatory, how important would it be for 12 month rolling loss factors to be used in the allocation process?</p>	<p>Genesis Energy considers that the use of 12 month rolling loss factors is important irrespective of whether global allocation is mandatory or not.</p> <p>The Gas Industry Company should ensure that distribution companies are required to review loss factors across their networks every 12 months and, that these losses are factored into allocated volumes.</p> <p>Genesis Energy suggests that the revised loss factors be made available and effective as of 1 October of each new gas reconciliation year as Genesis Energy, as with other retailers, uses the loss factors when reviewing customer pricing schedules.</p>
<p>Q9 Should all gas gate daily metered quantities be published daily? What difficulties (e.g. confidentiality) might arise from daily publication?</p>	<p>Yes. Full disclosure of measured gate volumes should help move the industry forward as it would help to:</p> <ol style="list-style-type: none"> 1. Expedite investigations into anomalous volumes; 2. Help to provide confidence in allocated volumes; 3. Provide greater transparency to the industry of trends; and 4. Help retailers to use accurate gate data to formulate shapes for 'forward/future' estimations etc.
<p>Q10 To what extent do industry problems arise as a result of poor quality data supplied into the allocation process?</p>	<p>In Genesis Energy's view, the outcome of the allocation process is only as good as the quality of the data that is submitted into it and the effectiveness of the process itself. As there are no formal standards on either data quality or file formats the question is whether it is a problem with initial data being supplied or the conversion of data once it is with the Allocation Agent.</p> <p>There is unquestionably an argument to look at estimation routines (comparing percentage change between initial file and subsequent wash up files) and introducing standard file formats (GIEPS = Gas Information Exchange Protocols) to help mitigate some of the issues surrounding data quality.</p> <p>The flow on effects of poor quality data can be seen immediately through transmission costs which rely on the downstream data for invoicing.</p>
<p>Q11 Should the Gas Industry Co introduce formalised, regular wash-ups of month end allocations after 4 or 6 months and after 12 months following the month in question?</p>	<p>Yes. Genesis Energy would like to see a 6 month and 12 month wash-up implemented.</p> <p>Genesis Energy's investigations show that its data improves and shows very little change from 6 months onwards because of the increased number of actual reads for our customer base.</p> <p>Any wash-up period would need to be formalised, structured and flow through from Retailers to the Allocation Agent, Distribution companies and Transmission.</p>

QUESTION	COMMENT
<p>Q12 Is it appropriate, as part of the initial changes to allocation arrangements, to require all retailers to read every non-TOU ICP at least once in every twelve month cycle?</p>	<p>As a general principle, Genesis Energy considers that the Gas Industry Company should not focus on <i>how</i> retailers undertake their business operations, but should instead be strongly focused on ensuring that the right outcome – that of ensuring that high quality data is being submitted into the reconciliation process – is being achieved. This provides retailers with the appropriate incentive to innovate in their operational practices while achieving the desired outcome. Focusing on prescriptive approaches reduces the scope for innovative practices by requiring all retailers to do this same thing. This in turn reduces the point of difference on which retailers can compete.</p> <p>Whether to focus on achieving an outcome, or enforcing a common input practice can only really be determined by the factual circumstances of the situation and the relative level of risk involved in each.</p> <p>Genesis Energy’s current assessment of which path to take is that the risks of focusing on the delivery of the outcome is too high given the lack of maturity of the gas industry, relative to say the electricity industry where the outcome focus is about to be adopted in its new reconciliation process. Having said that, the Gas Industry Company should remain open, at some later stage, to assessing the merits of an outcome-focused approach.</p> <p>In the short-term, in terms of implementing the input approach, the Gas Industry Company should ensure that exceptional circumstances where retailers are unable to gain access to the site can be accommodated when finalising the details surrounding this.</p>
<p>Q13 Should the Gas Industry Co establish accuracy criteria for estimates (in conjunction with an appropriate compliance regime)?</p>	<p>See our response to Q 12 above. Genesis Energy considers that this concept has merit in theory however additional detail will need to be developed for further industry comment.</p>
<p>Q14 Is it appropriate in the longer term (after the initial changes are made to the allocation arrangements) to introduce a requirement that submitted data contains a minimum percentage of historic read data?</p>	<p>This concept also has merit in theory however additional detail will need to be developed for further industry comment. In particular, Genesis Energy believes that having this requirement on the initial file may not deliver the outcomes the Gas Industry Co intends. Genesis Energy considers that this type of requirement would be beneficial to measure subsequent wash up file volumes against the initial file.</p>
<p>Q15 Is it appropriate in the longer term to introduce a standardised data transfer format?</p>	<p>Yes. However, Genesis Energy does not understand why this is a longer term issue, particularly in light of the Gas Industry Company’s own recognition that “Data quality issues are exacerbated by the lack of a standardised format for submitting data to the allocation agent.”</p> <p>Genesis Energy fails to see (other than the fact that this may not quite meet the Gas Industry Company’s criteria of being an ‘easy fix’) what factors would prevent work on standardising data formats, from being a success. Therefore, Genesis Energy suggests that the Gas Industry Company should move forward with this as a matter of some urgency.</p>

QUESTION	COMMENT
<p>Q16 Do you agree that the two main options that should be considered for making allocation and reconciliation arrangements mandatory and enforceable are a modification of the existing contractual arrangements, and Ministerial rules under the Gas Act?</p>	<p>Yes.</p>
<p>Q17 Do you agree that potential problems with pipeline owner leverage and Commerce Act risks associated with the contractual arrangements favour the Ministerial rules solution?</p>	<p>Given the information provided by the Gas Industry Company, Genesis Energy would concur that the issues outlines would, on the face of it, appear to tip the balance in favour of a rules-based approach.</p> <p>However, while Genesis Energy is inclined towards a rules-based solution in this instance (as set out in the cover letter), Genesis Energy has two comments:</p> <ol style="list-style-type: none"> 1. Genesis Energy recognises that this current consultation paper outlines the Gas Industry Company's preliminary views on the direction that should be taken and that it is not intended to be incorporate a cost-benefit analysis. Therefore, Genesis Energy expects the Gas Industry Company in its next consultation document on the issue of allocation and reconciliation arrangements to demonstrate in net-benefit terms why it considers that a rules-based arrangement is better than the mitigation of risks via a contractual arrangement. Only when this analysis is shown can Genesis Energy make an informed determination as to whether rules is in fact, the better solution; and 2. It is easy for the Gas Industry Company to raise the spectre of Commerce Commission intervention as a negative element of pursuing an industry-based arrangement – once the Commerce Commission has accepted jurisdiction the process can become much more complex and costly. And the generality of the Gas Industry Company's arguments are difficult to rebut as a set of propositions. However, it is their very generality that is their weakness – despite the Gas Industry Company's level of knowledge of what it wishes to eventually implement, the Gas Industry Company fails to contrast this with other previous factual examples, nor does it give an assessment of the probability of the Commerce Commission seeking jurisdiction. This would have been helpful.