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Submission on the Draft SoP for Gas Production and Storage Facility Outage Information

Introduction

1. This is Vector Limited's (Vector) submission on the Gas Industry Company's (Gas Industry Co) *Draft Statement of Proposal: Gas Production and Storage Facility Outage Information* (Draft SoP), dated 16 December 2020. We appreciate the opportunity in November 2020 to provide input into the cost-benefit analysis undertaken by Sapere Research Group, commissioned by Gas Industry Co to inform the development of the Draft SoP.
2. We welcome Gas Industry Co's decision to progress its work on the disclosure of gas production and storage outage information ahead of other information elements being considered in the wider information disclosure workstream. Given widespread industry agreement on the importance of timely and symmetric access to outage information, prioritising this information will deliver immediate benefits to the industry and consumers at low cost, i.e. it is a 'low hanging fruit'. It ensures that the resolution of outage information disclosure issues will not be delayed by potentially contentious issues associated with other types of information such as information on gas volumes and prices.
3. We acknowledge the development of the *Upstream Gas Outage Information Disclosure Code 2020* (the voluntary Code) by gas producers and storage owner under which they currently disclose outage information via the Gas Industry Co website. We consider this to be a step in the right direction in the promotion of greater transparency in the wholesale gas sector.
4. For the longer term, we broadly agree with Gas Industry Co's preferred option of implementing outage information disclosure arrangements within a framework of rules and/or regulations under the *Gas Act 1992*. This would ensure that arrangements intended to ensure the symmetric and timely disclosure of outage information will be more robust and sustainable. However, in our view, the proposed design for the initial notification of unplanned outages is problematic and will not sufficiently overcome the issue of information asymmetry. We suggest an alternative arrangement for unplanned outage notifications under Gas Industry Co's preferred regulated option in our response to Q5 below.

Responses to consultation questions

Q1: Do you agree with the regulatory definition? Please provide reasons supporting your views.

5. Vector generally agrees with the regulatory definition proposed in the Draft SoP. It reflects the need for arrangements that ensure the symmetric and timely disclosure of outage information to all market participants so they can make more informed trading, investment, and operational decisions. Greater transparency promotes market efficiency and competition that benefit consumers.

6. We suggest that Gas Industry Co further expand the regulatory definition to reflect that only information that may have a material impact on the wholesale gas market is captured by the proposed arrangements, as follows:

That arrangements are in place that ensure the effective and timely availability of material gas production and storage outage information for all gas and related market participants.

Q2: Do you agree with the information disclosure options for gas production and storage facility outage information that have been identified? Please provide reasons for your views.

Q3: Are there other options that you think should be considered in this process?

7. Vector generally agrees with the information disclosure options for gas production and storage facility outages identified in the Draft SoP.
8. Following multiple consultations by Gas Industry Co on information disclosure in the wholesale gas sector, there is now widespread stakeholder recognition that new arrangements that promote greater disclosure are warranted. This is to ensure that market participants compete on a level playing field and can make more efficient investment decisions that benefit their customers. The status quo therefore cannot be an option as it would entrench existing inefficiencies in the market due to limited or opaque information.
9. The two options identified in the Draft SoP – implementing outage information disclosure arrangements either under the voluntary Code or via rules/regulations under the *Gas Act* – both promote greater transparency. It is now a matter of which arrangement would better and more robustly ensure the effective and timely availability of outage information as set out in the Draft SoP’s regulatory objective.
10. While this consultation only captures information on gas production and storage facility outages, we suggest that Gas Industry Co consider looking into promoting greater transparency of the ‘deliverability’ of gas from different fields as part of a future, appropriate initiative. This would particularly be helpful in informing market participants’ investment decisions.

Q4: Do you agree with our assessment of the Upstream Gas Outage Information Disclosure Code 2020 as an option for achieving the regulatory objective? Please provide supporting arguments for your views.

11. Vector generally agrees with Gas Industry Co’s assessment of the voluntary Code as an option for achieving the regulatory objective. Arrangements under the voluntary Code have significantly contributed to increased transparency in the wholesale gas market, which we appreciate. For the longer term, we believe that the interests of gas market participants and consumers can be further promoted through more durable information disclosure arrangements supported by compliance regulations.
12. As indicated in the Draft SoP (page 50), there are issues that a voluntary arrangement is unlikely to address for the following reasons, which a regulated disclosure arrangement is intended to overcome:
- The difficulty in reaching consensus on the terms of a multilateral compliance arrangement.
 - Remedies are likely to be limited to a contractual claim, which may effectively limit compliance action being taken (and therefore the incentives for compliance).

- The diverse nature of parties who would need to be included within the scope of the multilateral arrangement. Given that compliance with disclosure requirements may have an impact beyond the parties making disclosure, parties receiving information would need to be a party to the arrangement.
 - Parties cannot be compelled to join the multilateral arrangement.
13. In addition, parties may have differing views on materiality which would not help achieve uniformity in terms of the information that is disclosed and the timing of the disclosure.

Q5: Do you agree with the design of this regulatory option? Are there parts of the design that require amendment? Please provide supporting information in your response.

14. Vector generally agrees with the design of the regulatory option for planned outages but has suggestions that would help resolve residual issues for unplanned outages. We set out our views on specific aspects of the proposed design below.

Disclosure of planned outages

15. We agree that the proposed information disclosure arrangements should include the following facilities:
- gas production facilities that have produced a minimum of 20 TJ/day; and
 - gas storage facilities that have a maximum withdrawal rate of at least 20 TJ/day.
16. We agree with the proposed requirement that a gas producer or storage owner should make rolling 12-month forecast outage disclosures on a quarterly basis. And should the party disclosing the information becomes aware of any material change to this information, it should disclose this information as soon as reasonably practicable.
17. Gas Industry Co's proposal includes a requirement for an annual director's certification that the gas producer or storage owner has complied with its disclosure obligations over the previous year. We suggest that Gas Industry Co consider aligning this requirement with the similar requirement in the Electricity Authority's (the Authority) *Guidelines for participants on wholesale market information disclosure obligations* (WMID Guidelines). The Authority has recently revised this requirement, as follows:

The Authority has decided to lower the annual certification signoff requirement in response to submitters' feedback...¹

We have decided to remove the requirement for the additional Director signoff and to remove the explicit requirement that the board of the major participant consider each quarterly disclosure report. A senior manager of the major participant will now certify that a quarterly disclosure report is complete and is a true and correct record of the matters stated in each quarterly disclosure report and report as to whether a major participant has policies in relation to identifying and withholding disclosure information at the time the major participant submits each quarterly disclosure report. There will no longer be any additional annual requirements.²

¹ <https://www.ea.govt.nz/assets/dms-assets/27/Wholesale-market-information-disclosure-Review-of-thermal-fuels-decision-paper.pdf>, page 18

² *Ibid.*

This now aligns with the quarterly disclosure report signoff requirements and will further reduce the compliance costs faced by obligated participants. A governance board does not need to be involved in this signoff unless they choose to be.³

Disclosure of unplanned outages

18. We agree with Gas Industry Co's proposal to require the following notifications for an unplanned outage: initial notification, daily updates, weekly updates, cessation notification, and material updates.
19. We are, however, concerned that the criteria applied for producers to assess materiality is troublesome. We would prefer that the criteria be amended from TJ per day to TJ per hour of lost production. As a starting point, we would suggest 1TJ per hour as the threshold.
20. By doing this, the producer does not have to determine the duration of an unplanned outage (i.e. how long an outage could/will last) to determine materiality. In our view, having to make this determination for an unplanned outage will potentially delay the initial notification to the industry.
21. The Draft SoP proposes that "[a]n initial notification should be made as soon as reasonably practicable and not later than 12 hours after the occurrence of the outage" (page 44). In our view, this 12-hour maximum timeframe would result in:
 - the disclosure of information that would not be timely and would therefore be of diminished value to its recipients;
 - a market environment where buyers of gas from that production facility will become aware of price sensitive information ahead of other market participants; and
 - the parties who hold that information being placed in an uncomfortable position as to whether they can enter into arrangements with parties who may not be privy to that same information.
22. In the interest of information symmetry, we would like to see the disclosure of an unplanned outage by the field operator to be made to all industry participants in the first instance. If there are contractual issues that prevent this, then efforts should be made to substantially reduce the time between the notification of the event to certain parties and the notification to the rest of the industry.
23. Based on the above, we suggest that the initial notification of an unplanned outage be made within the first hour of the outage occurring as much as possible, and updates disclosed thereafter, as appropriate. In the experience of our gas trading business (OnGas), it is the expectation of market participants that gas traders (or some traders and buyers of gas) would generally be aware of an unplanned outage within an hour of the event.
24. We note that the Electricity Authority's recently revised WMID Guidelines, which support the relevant provisions in the *Electricity Industry Participation Code 2010* (the Code), provide that:

In essence, a participant must disclose disclosure information as soon as it becomes aware of it, subject to reasonable practicalities which might include verification or

³ <https://www.ea.govt.nz/assets/dms-assets/27/Wholesale-market-information-disclosure-Review-of-thermal-fuels-decision-paper.pdf>, page 18

approval, etc. A participant must disclose new or corrected information as early as possible when it is clear the current disclosed information is no longer correct.⁴

...In general terms, a participant needs to disclose disclosure information as soon as practicable after anyone in the organisation becomes aware of the disclosure information.⁵

The Code requires that disclosure information be made readily available to the public as soon as reasonably practicable.⁶

25. In the interest of achieving alignment of gas outage information disclosure arrangements between the gas and electricity sectors, a maximum 12-hour timeframe for the initial notification of an unplanned outage would not, in our view, meet the sense of urgency that is required of the relevant electricity industry participants under the WMID Guidelines. We therefore suggest that Gas Industry Co remove the 12-hour maximum timeframe in the Draft SoP and consider alternative arrangements that require initial unplanned outage notifications to be made in a timelier manner such as the arrangement we propose above.

Q6: Do you agree with our conclusion that the most practicable means for implementing information disclosure arrangements for gas production and storage facility outage information is to implement them within a framework of regulations (and/or rules) under the Gas Act? Please provide supporting arguments in your response.

26. Yes, as indicated in in our response to Q4 above and in previous Vector submissions on information disclosure in the wholesale gas sector, we agree that the most practicable means for implementing information disclosure arrangements for gas production and storage outages is through a framework of regulations and/or rules under the *Gas Act*.

Concluding comments

27. We are happy to discuss any aspects of this submission with Gas Industry Co, particularly the design of the initial notification of unplanned gas production and storage outages. Please contact Graeme Stodart (Natural Gas Trading Manager) at Graeme.Stodart@vector.co.nz or 04 803 9048 in the first instance.
28. No part of this submission is confidential, and we are happy for Gas Industry Co to publish it in its entirety.

Yours sincerely
For and on behalf of Vector Limited



Neil Williams
GM Market Regulation

⁴ <https://www.ea.govt.nz/assets/dms-assets/27/Appendix-E-Guidelines-for-participants-on-wholesale-market-information-disclosure-obligations-showing-changes.pdf>, section 9.1

⁵ *Ibid.*, section 9.2

⁶ *Ibid.*, section 9.6