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**Vector Limited**

101 Carlton Gore Road  
PO Box 99882, Newmarket  
Auckland 1149, New Zealand  
[www.vector.co.nz](http://www.vector.co.nz)

Corporate Telephone  
+64-9-978 7788

Corporate Facsimile  
+64-9-978 7799

Jenny Howell  
Gas Industry Company  
PO Box 10-646  
Wellington

Dear Jenny

**Submission on the Statement of Proposal: Information Gathering  
for Gas Governance Development and Administration**

1. Vector Limited ("Vector") is responding to the GIC's *Statement of Proposal: Information Gathering for Gas Governance Development and Administration* ("SoP"), dated 22 December 2011.
2. Vector is disappointed with the SOP. We do not believe it provides a robust basis for advancing regulatory changes.
3. In Vector's view:
  - a. The proposed information gathering powers are general in nature and not permissible under the Gas Act 1992.
  - b. The GIC needs to identify what information, if any, it actually wants before it proposes new information gathering powers.
  - c. It is not apparent why the GIC could not determine what information it would want in advance of introducing regulation. It would need to determine this at some point.
  - d. The GIC cannot determine whether or not it can rely on existing mechanisms (eg voluntary disclosure, public information, and the Commerce Commission's draft Gas Information Disclosure Requirements) if it does not know what information it wants.
  - e. It is not possible to do a meaningful cost-benefit analysis of new information gathering powers without knowing what information would be

required to be provided. For example, it would not be possible to work out the regulatory compliance costs of disclosure requirements without knowing what information would be required.

4. No part of this submission is confidential and Vector is happy for it to be made publicly available.

### **Information gathering powers**

5. Vector is disappointed with the GIC's SoP. The GIC is proposing information gathering powers without clearly defining the purpose for which the information will be required. As a consequence, the GIC does not specify what information it requires industry participants to provide. Vector does not support this approach, which does not provide a robust basis for advancing regulatory changes.
6. The SoP correctly acknowledges that the Gas Act does not provide the GIC with general powers to require industry participants to provide particular information. This restriction is not remedied by narrowing the proposed information gathering powers to a subset of policy issues. The proposals are still general powers; it is just that the scope is narrowed from everything relating to the gas sector.
7. In order for the GIC to develop gas information disclosure requirements that would satisfy the Gas Act, it needs to identify what specific information, if any, it actually wants to be disclosed. While the proposed regulatory framework is intended to cover a limited number of issues, the GIC could be exercising general powers in respect of these issues.
8. Vector **recommends** that the GIC seek legal advice on what is permissible under the Gas Act.

### **Information requirements**

9. Regardless of the restrictions in the Gas Act, Vector considers that good public policy requires 1) an understanding of the market failure, 2) identification of options for efficiently addressing the market failure, and 3) assessment of the net benefits to consumers of different policy options.<sup>1</sup> Establishing market failure would require evidence, without which the market failure cannot be properly defined or proven to exist. Evidence would also show whether the problem is systemic and current, and if so, whether it is best addressed by regulatory intervention.

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<sup>1</sup> *Independent Review of TPAG Discussion Paper*, page 10,  
<http://www.ea.govt.nz/search/?q=biggar+transmission+pricing>

10. If the GIC introduced general information gathering powers it would still need to determine, at some point in time, what information it wants disclosed. Vector expects the GIC to do this before it introduces information disclosure provisions, not afterwards.
11. The GIC should establish a tight link between an identified market failure and how the required information would be useful for addressing the extent of that failure and therefore how the gathering of that information assists the GIC in delivering its obligations under the Gas Act.
12. Without specifying the information required, the cost-benefit analysis in the SoP would be meaningless. It would be impossible for the GIC and the relevant industry participants to determine whether the information is available, and what it would cost to provide the information. The GIC should be cognisant that the process of providing information is not costless, for example, bringing information to auditable standards.
13. Once the GIC has identified what information is required, it will then be possible to work out where existing mechanisms (eg voluntary disclosure, existing work streams, Commerce Commission Part 4 Information Disclosure) can be relied on and whether specific information gathering regulations are required.
14. It is premature for the GIC to assume that it needs information gathering powers before it has worked out what information it wants, and whether such information can be more efficiently or reasonably obtained through existing mechanisms.

### **Overlapping responsibilities of the GIC and Commerce Commission**

15. For capacity/transmission investment, for example, we see no reason why the Information Disclosure Requirements being developed by the Commerce Commission ("the Commission") under Part 4 of the Commerce Act could not be relied on.
16. The Commission and GIC have overlapping responsibilities and objectives, including:
  - a. ensuring gas is delivered in a safe, efficient and reliable manner (s43ZN(a) of the Gas Act and s52A(1)(b) of the Commerce Act));
  - b. incentives to invest in gas transmission and distribution (s43ZN(b)(iii) of the Gas Act and s52A(1)(a) of the Commerce Act); and
  - c. prices are subject to downward pressure (s43ZN(b)(iv) of the Gas Act and s52A(1)(c) of the Commerce Act).

17. It is unclear in the SoP what, if any, information the GIC would want that the Commission is not currently proposing to be disclosed. The SoP states that “[t]he reliance on the disclosure or information gathering regimes of other agencies is dependent on those mechanisms collecting the types of information required by Gas Industry Co for its policy development process” (page 22). This is true.
18. Vector suggests that the GIC and the Commission work together to ensure the GIC’s needs, where reasonable, are accommodated within the Commission’s Information Disclosure Requirements, to avoid costly duplication.
19. The SoP expresses concern that “Gas Industry Co has no ability to compel compliance with these other disclosure schemes and must rely on the other agencies to enforce the information collection” (page 22). Again, it is unclear what specific concerns the GIC has about compliance with and enforcement of, for example, the Commission’s Information Disclosure requirements. Those covered by these requirements are legally required to comply with them.
20. Vector suggests that the GIC liaise with the Commission to ensure that its information needs can be accommodated through Part 4 Information Disclosure, where reasonable and practical.

**Closing comment**

21. Vector is willing to further engage with the GIC and industry participants on this issue.
22. If you have any questions, or require further information, please contact Luz Rose, Senior Regulatory Analyst, on 04 803 9051 or [Luz.Rose@vector.co.nz](mailto:Luz.Rose@vector.co.nz).

Kind regards



Bruce Girdwood  
**Manager Regulatory Affairs**