



COMMERCE COMMISSION

Invitation for Expressions of Interest

GAS PIPELINES INQUIRY EXPERT ADVICE

Purpose

This invitation for expressions of interest is issued by the Commerce Commission (the Commission).

The Commission anticipates engaging consultants to assist it in a range of areas relevant to its gas pipelines inquiry (the gas pipelines inquiry). In order to streamline the process of selecting consultants, the Commission is now seeking expressions of interest from suitably qualified persons.

The Commission proposes to use the expressions of interest to establish a list of potential advisors, from which it may select a shortlist for a range of specific tasks, as and when such work arises. Depending on the nature and value of such engagements, the Commission may shortlist several candidates, who would be invited to submit proposals for the work.

The deadline for submitting expressions of interest is **9.00am Monday 23 June 2003**.

Context

On 30 April 2003, the Minister of Energy requested the Commission make recommendations on whether or not the supply of gas pipeline (both transmission and distribution) services (gas pipeline services) should be controlled. The Minister of Energy has requested the Commission complete the gas pipelines inquiry by 1 November 2004.

This is the Commission's second control inquiry. The Minister of Commerce requested that the Commission report on whether the supply of airfield activities at Auckland, Wellington and Christchurch International Airports should be controlled. The Commission completed that inquiry and reported to the Minister of Commerce in August 2002.

Further information regarding the gas pipelines inquiry, including the statutory framework, the terms of reference and the Commission's proposed process, is annexed to this document.

Likely areas of expert assistance

The Commission expects to seek expertise from a range of disciplines (including economics, accounting and engineering) and across a range of areas related to the gas pipelines inquiry, including (in no particular order and not limited to):

- financial analysis of gas pipeline businesses;
- analysis of markets and contracts related to gas pipeline services;
- estimation of weighted average cost of capital relevant to gas pipeline services;
- valuation of assets relevant to gas pipeline services; and
- assessment of efficient costs related to gas pipeline services.

Expressions of Interest

Expressions of interest in respect of this proposed assignment are invited from suitably qualified experts and/or companies (consultants). Expressions of interest should include the following information:

- name of consultant, ownership and background information;
- area(s) of potential interest (drawing from the list above and any other areas that may be considered necessary or useful for the gas pipelines inquiry);
- the people who would carry out the work, along with their relevant experience in the area of interest, and knowledge of the gas pipelines industry; and
- any potential conflicts of interest and all gas-related assignments undertaken for New Zealand clients in the past 24 months. Should any potential or perceived conflicts be identified, the management of these should be explained.

No Agreement

Participation in this expression of interest process is not to be taken as an indication that any consultant will be selected to participate in a further process to enter into arrangements to assist the Commission in relation to the gas pipelines inquiry. Any consultants selected will be required to sign a formal consultancy agreement and any obligations are expressly subject to such an agreement being signed.

Address for expressions of interest

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The deadline for submitting expressions of interest is **9.00am Monday 23 June 2003**.

END (Annex follows)

GAS PIPELINES INQUIRY: FURTHER INFORMATION

Statutory framework

The Commerce Act 1986 (Act) envisages the possibility that control may be introduced over goods and services as part of the statutory framework to promote competition in markets within New Zealand. The relevant provisions are found in Part IV of the Act.

The process for the introduction of control requires the Governor-General to declare, by an Order in Council, that specified goods and services shall be controlled. The Governor-General may only do so on the recommendation of the Minister of Commerce.

The Minister of Commerce may only make a recommendation for control if satisfied the goods or services are supplied or acquired in a market in which competition is limited or likely to be lessened, and it is necessary or desirable that goods or services be controlled in the interests of acquirers or suppliers.

For the purpose of the gas pipelines inquiry, the Minister of Energy can, pursuant to s13 of the Ministry of Energy (Abolition) Act 1989, exercise and perform the powers and duties conferred on the Minister of Commerce under sections 53, 54 and 56 of the Act with respect to the prices of specified classes of goods and services.

The Act allows the Minister of Commerce (the Minister of Energy in this case) to request the Commission to report on whether control should be recommended to the Governor-General. The Minister of Energy has, by letter dated 30 April 2003, requested the Commission do this by 1 November 2004.

In making its recommendations to the Minister of Energy, the Commission will need to address, as required by the relevant provisions of the Act, whether:

- competition in the supply of gas pipeline services is limited or likely to be lessened; and
- control is necessary or desirable in the interests of acquirers or suppliers of gas pipeline services.

Terms of reference

The Terms of Reference for the gas pipelines inquiry are available on the Commission's website, www.comcom.govt.nz.

The goods or services specified by the Minister of Energy are those connected with either gas transmission or gas distribution or both ("gas services"). For the avoidance of doubt, the Minister of Energy noted in his letter that "bypass" pipelines and pipelines owned by Maui Development Limited are to be included in the gas pipelines inquiry.

The Minister of Energy has asked the Commission in reaching its view on whether control should be introduced for specific advice on:

- whether gas pipeline services may be controlled in terms of section 52 of the Act;
- the methodology that the Commission considers appropriate for valuation of pipeline assets for the purposes of its advice on the matters covered in the Minister's letter;
- the net benefits to the public of control; and
- any other matter that the Commission may think relevant to a decision on whether control should be introduced.

Should the Commission recommend gas pipeline services be controlled, the Minister of Energy has also requested specific advice on the technical provisions relating to declaration of control as set out in section 57A of the Act.

Proposed process

The Commission has recently invited submissions on the process it proposes to follow for the gas pipelines inquiry. The proposed process is as follows:

Process step	Indicative date
Proposed process released by Commission	30 May 2003
Written submissions on proposed process due	16 June 2003
Process confirmed by Commission <i>Gazette</i> notice published pursuant to s57(2) of the Commerce Act	30 June 2003
Framework Paper released by Commission	11 July 2003
Written submissions on Framework Paper due	8 August 2003
Conference on Framework Paper	1-5 September 2003
Draft Report released by Commission	March 2004
Written submission on Draft Report due	April / May 2004
Conference on Draft report	May / June 2004
Final Report provided to Minister of Energy	By 1 November 2004

Comments are invited on the proposed process by 16 June 2003. The Commission intends to publish the process it has decided to adopt by 30 June 2003.

The proposed process draws on that used by the Commission for the airports inquiry (completed in August 2002) and the Commission's general procedure for determining authorisation applications under the Act.

A key change, compared to the process for the airports inquiry, is the release of a Framework Paper in the early stages of the gas pipelines inquiry, along with the request for submissions and a conference on that paper. The Commission considers that including this step in the process will give a better separation between the formulation of the framework and methodologies for the gas pipelines inquiry on one hand, and the application of the framework and methodologies on the other. The Framework Paper is expected to include the Commission's:

- approach to the gas pipelines inquiry, including a definition of the goods and services subject to that inquiry;
- analysis of the legal framework (Part IV of the Act);
- proposed approach to examining the level of competition for gas pipeline services, including the relevant markets for the gas pipelines inquiry and the issues that will be investigated within the defined markets; and
- proposed economic framework, including relevant economic efficiency considerations (e.g. principles for pricing, asset valuation & WACC) and the Commission's proposed approach to the analysis for determining whether control is necessary or desirable.

Other points to note

The relevant statutory provisions were applied by the Commission in the context of the airports inquiry. The Commission made its recommendations to the Minister of Commerce on 1 August 2002. A public version of the Commission's final report is available at http://www.med.govt.nz/buslt/bus_pol/airports/index.html

For the avoidance of doubt, the Commission's role in relation to the gas pipelines inquiry is different to that related to electricity lines businesses:

- in the case of gas pipelines inquiry (Part IV of the Act), the Governor-General, on the recommendation of the Minister of Energy, would, if required, be responsible for declaring control. The Commission's role is to make recommendations to the Minister of Energy on whether or not control is necessary or desirable; and
- in the case of electricity lines businesses (Part 4A), the Commission can itself, if required and subject to the relevant statutory provisions, declare control of electricity lines businesses.

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