



COMMERCE COMMISSION

## Invitation for Expressions of Interest

### GAS CONTROL

### EXPERT ADVICE

#### Purpose

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

The Commission anticipates engaging consultants to assist it in a range of areas relevant to the implementation of control over controlled services<sup>1</sup>, identified in the Commerce (Control of Natural Gas Services) Order 2005. These are essentially the gas distribution services of Vector and Powerco as well as metering services owned by Powerco. 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 7 November 2005**.

#### Context

On 27 July 2005 the Minister of Energy, having accepted the recommendations of the Commission in its Gas Control Inquiry Final Report<sup>2</sup>, announced the imposition of control over the gas pipelines businesses of Vector and Powerco. The Minister also announced that a thresholds regime, similar to that under Part 4A for electricity lines businesses, for all gas pipelines businesses would be introduced. Control was implemented by way of the Commerce (Control of Natural Gas Services) Amendment Order 2005, gazetted 28 July, and was effective from and including 25 August 2005.

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<sup>1</sup> A definition of the controlled services is contained in the Order in Council available at <http://www.legislation.govt.nz>

<sup>2</sup> Gas Control Final Inquiry Report 29 November 2004.  
<http://www.comcom.govt.nz/RegulatoryControl/GasPipeline>

On 24 August 2005 the Commission issued a Provisional Authorisation in respect of the prices and quality of the gas pipeline services of Powerco and Vector. The Provisional Authorisation requires Powerco to ensure that its average price for controlled services as at 1 October 2005 be at least 9% lower than the average price charged at 30 June 2005. For Vector the average price as at 1 October 2005 must be at least 9.5% lower than the average price charged at 30 June 2005. The Provisional Authorisation also provided for the monitoring of service quality.

The Commission is now working towards making a Final Authorisation in respect of the controlled goods and services. It is anticipated work requiring specialist support will be undertaken during the period January –December 2006. The form of control will provide for possible transition to a thresholds regime.

A summary of the statutory framework setting out the scope of the Commission's powers and the matters to which the Commission must have regard 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 preparation of a final determination, including (in no particular order and not limited to):

- assistance in determining methodologies for the form of control (the Commission may authorise prices, revenue and / or quality);
- determining an ODV asset base and ensuring appropriate asset lives and values are established as the basis for pricing decisions;
- verifying forecast operating costs including cost of capital and capital expenditure / reviewing asset management plans (or alternatively the companies' equivalent planning tools) so as to ensure that operational expenditure and capital expenditure levels are efficient and consistent with those required to maintain the distribution assets into the future and to provide secure supply of gas;
- analysing the extent of competition for particular controlled services;
- gathering information on a disaggregated basis as to the cost allocation bases used and methodologies applied in determining prices so as to determine the appropriateness of the companies pricing; and
- establishing quality / reliability and security benchmarks / indicators for control

The final scope of proposed assignments will be specified in formal consultancy agreements. At this stage, therefore, the list above is indicative only.

## 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 authorisation project);
- 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 Australasian clients in the past 24 months indicating the dollar value of these assignments in New Zealand dollars. 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 determining final authorisations. Any consultants selected will be required to sign a formal consultancy agreement. Any obligations are expressly subject to such an agreement being signed.

**Address for expressions of interest**

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## GAS CONTROL FURTHER INFORMATION

### Statutory framework

The Commerce Act 1986 (Act) provides for authorisations to be issued in respect of controlled goods and services. The relevant provisions are found within Sections 70 - 73 of the Act. The key provisions, for the purposes of this project, without limiting the application of the other provisions, are considered to be:

- S70 (1) – The Commission may make an authorisation in respect of all or any component of the **prices, revenues, or quality standards** that apply in respect of the supply of controlled goods or services, **using whatever approach it considers appropriate**.
- S70A – In exercising its powers under section 70, **the Commission must have regard to-**
  - (a) the extent to which competition is limited or likely to be lessened in respect of the controlled goods or services:
  - (b) the necessity or desirability of safeguarding the interests of persons who acquire (whether directly or indirectly) or supply the controlled goods or services:
  - (c) the promotion of efficiency in the production and supply or acquisition of the controlled goods or services.
- S70F (1) – An authorisation made under section 70 **may be amended or revoked at any time** by the Commission by notice in the *Gazette*. [This extends to the Provisional Authorisation in place].
- S71 (1) – The Commission may authorise the supply of controlled goods or services to any person on terms determined by the Commission and specified in the notice, on the condition that the terms are only a provisional authorisation, pending the making of a final determination under section 70.

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