NETWORK CODE MODIFICATION PROPOSAL No: 0436

SHORT TITLE: Correction of Transco errors on the RGTA Capacity System

DATE: 13 November 2000
PROPOSED IMPLEMENTATION DATE: 1 December 2000

URGENCY: Non-urgent

JUSTIFICATION:

On 5 July 2000 Transco accepted bids for capacity via the RGTA Capacity System and then later in the day unilaterally decided to cancel these transactions. Shippers had in good faith entered into contracts with Transco for daily capacity and had expected such contractual commitments to be honoured.

Similar circumstances could reoccur in future. Clarification of Transco's obligations and actions is therefore required to help prevent this situation happening again.

CONSEQUENCE OF NOT MAKING THIS CHANGE:

On 5 July 2000 Transco chose a course of action which shippers believe put Transco in breach of the Network Code (as currently drafted). The industry and Ofgem would have preferred a market-based solution in which Transco bought back capacity. Although Ofgem rejected modification proposal 413, which proposed retrospective compensation, they were sympathetic to the views of shippers. In their decision letter they stated, "Ofgem does not believe its decision on this modification proposal should preclude future modifications being raised that suggest alternative compensation mechanisms to address errors that have been made by BG Transco".

There have been a number of occasions where shippers have made offers on the RGTA system in error. In the absence of manifest error provisions to rapidly 'unwind' such mistakes such shippers have had to face the full commercial, Licence and Network Code consequences of their errors. In contrast under the current rules Transco seem be able to avoid responsibility for their own errors. If Transco, having entered into contracts to buy or sell capacity, unilaterally decide to void those contracts, on the grounds of Transco error it is right that they should face the full commercial consequences of their actions.

Errors by Transco can either be related to the operation of the RGTA system itself (in their role as RGTA system operator) or human error in the way they use the system. Irrespective of the causes or the source of such errors the consequences to shippers of Transco seeking to 'correct' an error, are identical.

Without written obligations to define appropriate actions Transco may continue to use and operate the RGTA capacity system in an inappropriate manner.

AREA OF CODE CONCERNED:

Section B, System Use and Capacity.

NATURE OF PROPOSAL:

This proposal defines appropriate actions where Transco has made an error in the use or operation of the RGTA capacity system. The proposal is a modified version of the mechanism outlined in Part A of Modification Proposal 431, "Clarification of Transco's obligations with respect to its operation and use of the RGTA Capacity System", which was subsequently withdrawn. Changes to this original proposal have been made in the light of comments made by the shipping community**. A complimentary Modification Proposal "Remedies for Transco's failure to meet its entry capacity contractual commitments", builds on this proposal and should be considered concurrently.**

Obligations to correct errors through further trading

Shippers generally believe the Network Code (as currently drafted) does not permit Transco to 'unwind' sales or purchases of capacity it has entered into using the RGTA system. Nevertheless, to ensure absolute clarity in this area this modification proposes that the following should be stated in the Network Code:

"Should Transco in error commit to sell or buy capacity on the RGTA capacity system (whether due to system failures or human errors in placing or accepting bids/offers on that system) they will be obliged to correct such errors by means of counteracting transactions. In respect of the sale of too much capacity at an ASEP, Transco shall buy-back an equivalent amount of capacity within one hour of the error occurring and shall bear [20]%[1] of the cost of such purchases under the capacity incentive (Section B2.11). In respect of the buy-back of too much capacity at an ASEP, Transco shall sell an equivalent amount of capacity within one hour of the error occurring and shall only be entitled to receive [20]%[2] share of the income for the sale of such capacity under the capacity incentive (Section B2.11)."

PURPOSE OF THIS PROPOSAL

Transco as operator of the Transco RGTA system is in a privileged position in that it can, if it so chooses, unilaterally 'correct' errors it makes either in the running or use of that system. This proposal is designed to clarify Transco's Network Code obligations in such circumstances and to act as a deterrent and prevent Transco making similar breaches of the Network Code in future.

IDENTITY OF PROPOSERS REPRESENTATIVE:

[1] Ideally this value should be 100% so that holders of MSEC do not have to pick-up 80% of the cost of a Transco mistake. In practice, however, there is no straightforward way to distinguish legitimate capacity sales from capacity sales made in error. Thus the rate has been set at the current sharing factor for the capacity incentive. Nevertheless it is important that the possibility of the principle of Transco bearing all the costs should be enshrined in the Network Code – a method may be found to separate legitimate transactions from erroneous transactions in future.

[2] Ideally this value would be set at 0%, but for similar practical reasons to those outlined in footnote1, the value has been set at the current capacity incentive sharing factor.

PROPOSER: Peter Bolitho
SIGNATURE:
POSITION: Gas Trading Arrangements Manager
COMPANY: PowerGen UK plc

MODIFICATION PANEL SECRETARY'S USE ONLY

Reference Number:
Date Received:
Candidate Workstream: