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and value to
customers*

Transco, Shippers and
other interested parties

Your Ref:
Our Ref:
Direct Dial: 020 7901 7354
Email: industrycodes@ofgem.gov.uk

17 July 2003

Dear Colleague,

Request for Consent to Modify the Network Code Modification Rules

Ofgem has received a request from Transco, that it consent to a modification of the Transco network code modification rules, under Standard condition 9(6)(b) of its Gas Transporters Licence. Having carefully considered the proposals and the views of respondents to Transco's consultation, Ofgem has decided to consent to the modification.

In September 2002 the Authority implemented changes to Standard Conditions 4E and 9 of Transco's Gas Transporters Licence. The first of these changes has the effect of requiring Transco to comply with any obligation to disclose information relating either to the operation of the pipeline system or to any market relating to the system. The second change requires Transco to recognise Third Party Participants (TPPs) who are not Code signatories, in particular by permitting them to raise Modification Proposals to all or part of the Code.

The amended Standard Licence Conditions came about as a result of concerns raised with Ofgem from certain market participants, including customers, about the limited access they have to information in the gas market. Ofgem supports the customers' view that they should be able to influence the types of information to be made available under Transco's network code. Ofgem recognises that it is possible for shippers to raise modification proposals on behalf of customers. However, a shipper's interests may not always be aligned with those of its customers and as such it may not be in a position to raise a modification proposal on their behalf. The

modification to Standard Licence Condition 9 therefore enables TPPs (non-Network Code signatories) to propose Network Code modifications directly.

Transco initially proposed that only energywatch be recognised as a TPP. However, following consideration of responses this has been amended to an arrangement whereby the Authority may designate any person or body it considers representative of third parties as being a TPP for the purposes of the code modification rules and Standard Condition 9 more generally. This is in line with existing provisions in the Balancing and Settlement Code.

Transco proposed that TPPs can only propose modifications to the new annex to Section V, which would be introduced following the implementation of Modification proposal 601, should it be accepted by the Authority. This Annex will define those market related data items which Transco will disclose, as required by Network Code.

Several respondents to the Transco consultation stated that the scope of potential TPP changes is too narrow, with some commenting that TPPs should be able to raise modification to any part of the Network Code. Others supported the narrow scope, stating concerns that the ability of parties outside of the contract being able to change its terms may be to the detriment of its signatories.

As stated above, the intention of the licence modifications is to allow TPPs to directly influence the information that Transco discloses. In Ofgem's view, the proposed annex to define operational and market data will facilitate well-defined modification proposals for the disclosure of such information being developed and progressed. Although the direct scope of TPP proposals will be restricted to this annex, Ofgem envisage that any conflicting clauses within the main body of the Network Code will be identified during the development phase, and where necessary and appropriate, addressed within the legal text prepared by Transco for each modification in respect of which implementation is being recommended. TPP proposals, like any other, will be consulted upon, need to demonstrate that they better facilitate the achievement of the relevant objectives of the Network Code and be subject to the consent of the Authority.

Ofgem has consented to this application to modify Transco's Network Code modification rules. In Ofgem's view this will facilitate the efficient and effective discharge of Transco's duties under the Standards Conditions of its GT Licence.

If you have any queries in relation to the issues raised in this letter, please feel free to contact me on the above number.

Yours sincerely,

Jonathan Dixon
Head of Gas Network Codes