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Shippers, Transco and other interested parties

Dear Colleague,

Modification proposal 686 'Amendment to Pre Termination Processes and Associated EBCC Referrals'

Ofgem has carefully considered the issues raised in modification proposal 686 'Amendments to Pre Termination Processes and Associated EBCC Referrals'. Ofgem has decided to direct Transco to implement the modification, as we believe that it will better facilitate the achievement of the relevant objectives of Transco's network code.

In this letter we explain the background to the modification proposal and outline the reasons for making our decision.

Background to the proposal

Transco's energy balancing credit regime is embodied in the network code supplement (section X) and the Energy Balancing Credit Rules (EBCR). Section X vests the Credit Risk Manager – Energy (CRM-E)) and the Energy Balancing Credit Committee (EBCC) (whose members are elected to represent the interests of the shipping community operating on Transco's network) with a number of powers, duties and rights in order to manage the community's energy balancing credit risk. As Transco is financially 'neutral' to energy balancing activity, the shipping community has appointed it to act as the CRM-E on its behalf, applying the EBCR in accordance with the instructions of the EBCC.

Where a user fails to meet its obligations under section X, Transco has the right to issue a termination notice. When a termination notice is issued, the framework agreement (and ancillary agreements) ceases to bind the user and Transco. However, the current provisions of section X do not require Transco to consult the Energy Balancing Credit Committee (EBCC) prior

to issuing termination notices, apart from under X4.2.1 where an appointed receiver fails to provide adequate assurance to Transco in accordance with the credit regime.

The modification proposal

This modification proposal concerns the role of the EBCC in issuing of termination notices under section X. This proposal seeks an increased role for the EBCC in determining the issuance of termination notices through aligning sections X2.9.3, X2.10, X3.2.1 and X3.2.2 with X4.2.1, to require Transco (acting as the CRM-E) to convene a meeting of the EBCC for it to determine whether Transco should be obliged to issue the termination notice, or whether it should defer taking such a step.

Under this proposal the EBCC would also be informed of the issue of all 'failure' notices which includes failure to pay cash calls, further security request, failure to make payment and failure by a receiver to provide assurances.

Respondents' views

Four representations were made, all of which supported the implementation of the modification proposal. Respondents agreed that there are benefits from improved transparency of the termination process. British Gas Trading noted that the community will be better informed and that other users will be able to better assess their exposure under the proposed modification to the Network Code.

Transco's view

Transco supports the implementation of this modification proposal.

Ofgem's view

In light of the relevant objectives of Transco's network code and Ofgem's statutory duties, Ofgem has decided to direct Transco to implement the modification.

Ofgem believes that the implementation of modification proposal 686 will improve the consistency of energy balancing credit regime termination processes and provide for inclusiveness in the process. Ofgem agrees it is appropriate that decision-making regarding the issuance of termination notices for energy balancing charges should rest with the EBCC, given that it represents the shipping community that would ultimately be liable for exposure arising in the event of a default. Furthermore, increased transparency resulting from EBCC involvement has the ability to facilitate improvements in energy balancing credit risk management, thereby potentially reducing the level of risk of exposure to the remaining shipping community.

Ofgem does not envisage that the requirement to convene a meeting should unduly delay the issue of a notice, as meetings may be carried out by via teleconference or potentially by other electronic means (as currently occurs in the case of emergency EBCC meetings). Moreover, the advance warning of potential need for a meeting, provided through notification of the issue of a failure notice, should also serve to avoid delay.

Consistent with a key principle underlying arrangements for credit cover[1], Ofgem considers that reduction in risk to the shipper community should assist the creation of a stable and secure environment in which to operate. This in turn should facilitate the achievement of effective competition between relevant shippers and between relevant suppliers.

Ofgem's decision

For the reasons outlined above, Ofgem has decided to consent to this modification, as we believe that it better facilitates the achievement of the relevant objectives as outlined under Amended Standard Condition 9 of Transco's 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,

Nick Simpson
Director, Modifications

[1] As set out in the conclusions and proposals paper; Arrangements for gas and electricity network operator credit cover, February 2003 06/03.