
An appeal under section 173 Energy Act 2004

E.ON UK plc

-and-

GEMA

Chronology

Date	Event
18 February 2003	GEMA's determination in the <u>Langage Energy Park</u> case confirms the "shallow connection" policy in relation to ARCAs.
21 May 2003	NGG announces that it will consider the sale of one or more GDNs if to do so will maximise shareholder value.
27 May 2003	Ofgem letter regarding Universal Firm Registration indicates Ofgem's intention to take exit capacity reform forward as part of the GDN sales project.
31 July 2003	Ofgem issues a consultation document entitled, " <i>National Grid Transco – Potential sale of network distribution businesses</i> ", which identifies reform of the offtake arrangements as a gateway issue for any GDN sale.
17 December 2003	Ofgem issues a Next Steps paper regarding the possible GDN sale which indicates that Ofgem will consider the GDN sales and reform to the offtake arrangements in tandem.
20 January 2004	First meeting of Ofgem DISG. The Terms of Reference are amended to confine DISG's work to changes that are " <i>expedient and necessary to support the sale of one or more of NGT's DNs.</i> "
8 April 2004	The Gas Forum writes to GEMA drawing its attention to the "potentially damaging linkage between potential Distribution Network (DN) sales and reform of the exit capacity regime".
June 2004	Ofgem issues a Regulatory Impact Assessment concerning changes to the offtake arrangements. Ofgem expresses a preference for a "shipper booking" model ("Option 4") but notes that an "NTS-connects booking" model may be implemented in the short term. Ofgem also indicates that it regards "flexibility" as a "secondary capacity product".

9 July 2004	E.ON submits its response to the Regulatory Impact Assessment, expressing a preference for an administered offtake regime.
19 July 2004	The Gas Forum writes to Ofgem expressing extreme concern at Ofgem's proposal for changes to the offtake arrangements and urging a reconsideration of Ofgem's approach.
August 2004	Ofgem publishes a Conclusions Document on Framework regarding the offtake arrangements indicating Ofgem's decision to adopt the NTS connects booking model in the event that GDN sale proceeds. It also recommends that "flexibility" be defined as a separate product.
24 August 2004	At a DISG meeting, Ofgem sets out its ideas for an exit flexibility capacity product.
September 2004	UNC Development Forum established by NGG outside the formal Network Code Modification rules to draft the UNC and short form codes based on the Network Code.
7 September 2004	At the following DISG meeting, Transco gives a presentation on the exit flexibility capacity product.
24 September 2004	The Gas Forum with the support of the EIUG, MEUC, CIA and AEP writes to GEMA raising concerns about successful implementation of the potential sale of GDNs. It stresses the importance of not rushing implementation. It states " <i>The Gas Forum considers one aspect of the DN sale to be a genuine impediment to effective implementation, namely the proposed reform of the NTS exit and interruptions, particularly the recent proposals for a flexibility product.</i> "
29 October 2004	NGG proposes an Exit Reform Development Forum to work outside the Network Code Modification rules.
18 November 2004	Ofgem issues a Final Impact Assessment on the potential GDN sale and indicates the " <i>proposed new arrangements</i> " for allocation of exit offtake capacity. Ofgem indicates that " <i>interim</i> " arrangements will be introduced for the allocation of capacity in respect of the period 2005-2008 and that " <i>enduring</i> " offtake arrangements will be introduced in respect of the gas year 2008/09 and onwards.
December 2004	Transco publishes a consultation document entitled " <i>Towards a new industry framework</i> " regarding the proposed UNC.
21 January 2005	Ofgem gives conditional approval to the sale by National Grid Transco of four GDNs. A condition of the sale is that Transco and the GDNs undertake to introduce new offtake arrangements are to be implemented from September 2005.
23 February 2005	Transco raises Modification Proposal 0745 (Mod 0745), which would have the effect of removing virtually all of the operative text of the Network Code and replacing it with text incorporating the provisions of the new UNC by reference.
25 February 2005	Ofgem granted urgent status to Mod 0745.
1 March 2005	The Gas Forum makes a request for disclosure of documents by Ofgem pursuant to the Freedom of Information Act 2000.
3 March 2005	The Gas Forum writes to Ofgem criticising the decision to introduce obligations into the gas transportation licences requiring transporters to use their best endeavours to introduce enduring offtake arrangements by September 2005.

4 March 2005	Ofgem issues its consultation on the proposed UNC.
14 April 2005	Ofgem responds to the Gas Forum's Freedom of Information request.
17 March 2005	Ofgem responds to the Gas Forum's letter of 3 March 2005.
29 March 2005	Ofgem initiates the second stage of consultation on the proposed UNC.
25 April 2005	GEMA issues a decision directing that Mod 0745 be implemented from 1 May 2005 or such later date as GEMA might direct.
1 May 2005	GEMA designates the UNC under the relevant gas transportation licence condition. The UNC includes the "sunset" clause on the "interim" offtake arrangements.
25 May 2005	GEMA gives final unconditional consent to NGT to dispose of the shares in its four GDN companies to third party purchasers.
1 June 2005	Sale of the four GDNs to third parties independent of NGG. Special licence condition A55 requires each of NGG NTS and the other GDNs to exercise best endeavours to implement, on or before 1 September 2005, the enduring offtake arrangements as set out in the November 2004 Final Impact Assessment, or in such variation thereof as may be approved in writing by GEMA. The UNC code is established, containing the "interim" offtake arrangements, subject to sunset clauses expiring on 30 September 2008.
24 June 2005	In response to considerable industry opposition, GEMA decides to delay the introduction of enduring offtake arrangements beyond 1 September 2005 until September 2007 to allow for further consultation.
28 June 2005	NERA publish its first report for the Gas Forum " <i>Review of the Proposed Gas Exit Arrangements</i> " which sought to quantify the impact of the more detailed proposals that had emerged since Ofgem's June 2004 Impact Assessment. The report concluded that the costs of the proposed reforms would be approximately £90m in net present value terms.
19 August 2005	Transco makes Modification Proposal 046 to extend the sunset clauses on the interim offtake arrangements from 30 September 2008 to 30 September 2010.
12 September 2005	E.ON makes representations in support of deletion of the sunset clauses rather than their extension.
October 2005	Transco changes name to National Grid Gas.
December 2005	Ofgem issues its Second Consultation on the Transmission Price Control Review (TPCR), which contains a discussion on proposed changes to the offtake arrangements.
16 December 2005	Ofgem announces its decision to establish the Enduring Offtake Working Group (EOWG).
20 January 2006	Ofgem decides to implement Mod 46, thereby extending the sunset clauses on the transitional offtake arrangements to 30 September 2010.
4 January 2006	First meeting of the EOWG.

10 February 2006	National Audit Office publishes a report noting shippers' concerns about the way in which Ofgem handled the reform of gas exit arrangements in parallel with the GDN sale.
30 March 2006	Ofgem's Third Consultation on the TPCR confirms Ofgem's firm preference for long term user commitment models as the basis for reform of the offtake arrangements.
26 June 2006	GEMA publishes a draft impact assessment on the modification proposals. GEMA estimates a net benefit of £45.9 million to the proposed enduring offtake arrangements, as compared with existing arrangements.
23 August 2006	Final meeting of the EOWG.
13 September 2006	NGG NTS makes Modification Proposal 0116.
October 2006	GEMA's determination in the <u>Marchwood</u> dispute confirms that ARCAs should generally last no more than one year.
6 October 2006	Workstream Report on Modification Proposal 0116.
12 October 2006	E.ON makes Modification Proposal 0116A, seeking to remove the "sunset" clauses from the UNC thereby allowing the existing arrangements to become the "enduring" arrangements.
12 October 2006	RWE Npower and RWE Trading GmbH make Modification Proposal 0116B.
17 October 2006	British Gas Trading make Modification Proposal 0116C.
23 October 2006	Joint Office of Gas Transporters publishes Draft Modification report on Modification Proposals 0116/0116A/0116B/0116C.
8 November 2006	RWE Trading request a variation to Modification Proposal 0116B.
15 November 2006	NGG NTS requests a variation to Modification Proposal 0116, which is withdrawn and replaced by Modification Proposal 0116CV.
16 November 2006	British Gas Trading requests a variation to Modification Proposal 0116C.
16 November 2006	Modification Proposal 0116 is withdrawn and replaced by Modification Proposal 0116V.
16 November 2006	Modification Proposal 0116B is withdrawn and replaced with Modification Proposal 0116BV.
22 November 2006	Scotia Gas Networks makes Modification Proposal 0116VD.
24 November 2006	Draft Modification Report on Modification Proposal 0116V (includes consideration of Modification Proposals 0116V, 0116A, 0116BV, 0116CV and 0116VD).
27 November 2006	Public Accounts Committee of the House of Commons orders its "Gas distribution networks: Ofgem's role in their sale, restructuring and future regulation" to be published. The Conclusions and Recommendations (para. 2) state that "As part of its sales approval process, Ofgem introduced unnecessary additional changes to the way gas networks operate."

5 December 2006	Scottish & Southern Energy, E.ON, International Power plc the Chemical Industries Association and Northern Gas Networks make representations to the UNC Panel Secretary regarding the Modification Proposals.
6 December 2006	The Association of Electricity Producers, SBGI Gas Storage Operators Group, ConocoPhillips (UK) Ltd, Centrica Storage Ltd, Electricity Supply Board (Rep. Ireland), EDF Trading, Energywatch Northern Ireland Authority for Energy Regulation, Wales & West Utilities, British Gas Trading, Scotia Gas Networks plc, EDF Energy, Viridian Power & Energy Limited, NGG NTS, NGG (UK Distribution), Total Gas & Power Limited, Shell Gas Direct Limited, RWE Npower plc and the UK Business of RWE Trading GmbH, Total E&P UK plc and Statoil (UK) Limited make representations to the UNC Panel Secretary regarding the Modification Proposals.
7 December 2006	Gaz de France, MEUC and Bord Gáis Networks make representations to the UNC Panel Secretary regarding the Modification Proposals.
7 December 2006	NERA Economic Consulting produce a report for the Gas Forum entitled, "Reform of NTS Gas Offtake Arrangements" on Modification Proposal 0116V and associated proposals. It concludes that the implementation of Mod 116V will cause net costs of between £77-113 million, as compared with the interim offtake arrangements.
19 December 2006	British Gas Trading requests a variation to Modification Proposal 0116CV.
21 December 2006	Modification Proposal 0116CV is withdrawn and replaced by Modification Proposal 0116CVV.
21 December 2006	The UNC Panel meets to consider the 0116V, 0116BV, 0116VD and 0116A proposals. Nine of the ten panel members vote to recommend Modification Proposal 0116A. The panel votes by majority to reject proposals 0116V, 0116BV and 0116VD.
22 December 2006	Final Modification Reports are published.
27 December 2006	British Gas Trading makes representations regarding Modification Proposal 0116CVV.
28 December 2006	RWE NPower makes representations regarding Modification Proposal 0116CVV.
29 December 2006	Wales & West Utilities makes representations regarding Modification Proposal 0116CVV.
30 December 2006	Scottish & Southern Energy makes representations regarding Modification Proposal 0116CVV.
January 2007	The Health and Safety Executive (HSE) informs GEMA that it has not received from the relevant duty holders and assessment of the safety implications of the proposed changes and that it will not be able to advise GEMA on the safety risks of the proposals before GEMA makes its decision.
2 January 2007	E.ON, Association of Electricity Producers and Scotia Gas Networks make representations regarding Modification Proposal 0116CVV.
3 January 2007	NGG NTS, Energywatch, National Grid Distribution and EDF Energy make representations regarding Modification Proposal 0116CVV.

3 January 2007	Peter Boreham, the Network Emergency Coordinator (NEC) at NGG, writes to the UNC Panel Secretary expressing concern that the safety implications of Mod 0116 and its impact on the NEC and Transporter safety cases have not been properly considered.
8 January 2007	Final Modification Report published for proposal 0116CVV.
8 January 2007	The UNC panel meets to consider proposal 0116CVV and votes by majority to reject the proposal.
7 February 2007	GEMA publishes a final impact assessment (" the FIA ") on the modification proposals. The FIA estimates that Modification Proposal 0116V will result in net benefits of £8.3 million relative to Modification Proposal 0116A (£28.5 million if only the four lowest costs submissions from shippers are included).
2 March 2007	International Power and Northern Gas Networks provide their responses to the FIA to Ofgem.
5 March 2007	The Gas Forum provides a response commissioned from NERA to Ofgem regarding the FIA.
6 March 2007	Responses to the FIA are provided to Ofgem by AEP, Bord Gais Energy Supply, Bord Gais Networks, British Gas, Chemical Industries Association, EDF Energy, Energywatch, NGG NTS, NGG Distribution, RWE Npower, Scottish and Southern Energy and Wales & West Utilities.
8 March 2007	EON provides its response to the FIA to Ofgem.
5 April 2007	GEMA publishes a decision directing that Modification Proposal 0116V be implemented but that its implementation be delayed until 1 April 2008. The decision estimates that Modification Proposal 0116V will result in net costs of between £20 million to £28 million relative to Modification Proposal 0116A (or net costs of £1 million to £7 million if only the four lowest costs submissions from shippers are included).
17 April 2007	NGG made Mod 142, to extend the UNC sunset clauses to 30 September 2011 in light of the Decision.
18 April 2007	Ofgem grants urgent status to Mod 142.