

NETWORK CODE MODIFICATION PROPOSAL 0413

SHORT TITLE: Compensation payments following Transco's failure to meet entry capacity contractual commitments

DATE: 14 July 2000
PROPOSED IMPLEMENTATION DATE: 1 October 2000

URGENCY: Urgent status requested

JUSTIFICATION:

On the 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.

As a result of Transco's actions shippers could well have been faced with significant overrun charges or cash-out exposure. A mechanism is therefore required to compensate shippers for breach of contract. This compensation mechanism should also act as an incentive on Transco to minimise future errors on their part.

CONSEQUENCE OF NOT MAKING THIS CHANGE:

The lack of adequate procedures for dealing with manifest errors in trading capacity on the RGTA system was identified under modification proposal 402 “Referral of entry capacity disputes to the Energy Balancing Credit Committee”. Although Ofgem rejected this proposal, they recognised the need for the introduction of systems to deal with these errors.

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. Under the current rules however, 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 implementation of a mechanism that both compensates affected shippers and incentivises Transco to avoid such errors 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:

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) and they subsequently take action to amend or void such transactions the following shall apply:

1. To all such errors made on or after 1 July 2000.
(Retrospective to ensure all affected shippers are properly compensated for Transco's breach of contract).
2. Where a shipper has had the sale or purchase of capacity amended or voided by Transco, Transco shall pay an amount equivalent to [2] times the overrun charge at the relevant entry point or [1.706] p/kWh whichever is the greater for each kWh of capacity that Transco has failed to buy/sell.
(Provides compensation to each shipper affected by each individual breach by Transco and applies whether or not such a shipper actually faced an overrun charge at a particular entry point on that day).
3. For the purposes of calculating the overrun charge under Section B 2.10 of the Network Code, the highest accepted offer price pursuant to any daily capacity offer or the highest accepted bid price pursuant to any daily capacity bid shall be determined with reference to the relevant contracted trade made prior to any amendment or voiding of such trades by Transco.
('Unwinding' of trades should not impact on the overrun charge calculation, which should be calculated assuming that such trades had been honoured).
4. Transco shall pay MSEC holders at the relevant terminal amounts specified under Section B 2.11 based on the income from sales of daily capacity expected prior to any amendment or voiding of such trades by Transco.
(Protects those shippers indirectly affected by Transco's actions, i.e. those shippers that had expected to receive income from the sale of daily capacity would continue to receive it).
5. If modification proposal 408 "Review of Entry Overrun Charges" is implemented compensation payments should be based on the overrun charge calculation for "constrained days", so as to retain a gas price linkage.
(This point is required because it is possible that shippers could be made aware during the gas day of Transco's intention to void or amend a capacity trade. In such circumstances shippers may have chosen to purchase gas from the NBP because of the perceived need to renominate contracts to within the revised capacity limits. It is therefore important that compensation payments continue to have a gas price component).

Although, to date Transco has only failed to meet contractual commitments for the sale of capacity, the problem could equally apply to the buy-back of capacity by Transco. As the highest accepted offer and highest accepted bid prices form part of the determination of overrun charges, shippers direct losses should be covered in both circumstances. The multiplier under point 2 is designed to provide sufficient compensation to both cover shippers' indirect losses and also act as a strong incentive on Transco to meet its contractual obligations.

Although this modification explicitly recognises the potential for Transco to make errors, nothing outlined in this proposal should relieve Transco from its obligations under the Network Code to honour contractual commitments it has entered into. However, it does provide a remedy should Transco choose, for whatever reason, to 'correct' its own errors by changing transactions recorded on the RGTA Capacity System.

[] Suggested values

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 compensate shippers where Transco in the past has voided or amended legitimate contracts made between Transco and shippers on the RGTA system. It is also intended to act as a deterrent and prevent Transco making similar breaches of the Network Code in future.

IDENTITY OF PROPOSERS REPRESENTATIVE:

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

MODIFICATION PANEL SECRETARY'S USE ONLY

Reference Number: 0413
Date Received:
Candidate Workstream: