

Mr Julian Majdanski
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BD/COM/05-009

**Re: Modification Nr. 727 3rd Party Proposal
Publication of Near Real Time Data at UK Sub Terminals**

Dear Julian,

Thank you for inviting us to comment on this Modification Proposal. Total E&P UK PLC **does not** support the implementation of this proposal, as we believe that substantial benefits of greater provision of upstream information to the wider market will be achieved by the Information Exchange programme already agreed last year between DTI, Ofgem, Transco and UKOOA. We strongly believe that this agreed initiative should be implemented, operated and assessed prior to further change.

We support Transco's arguments stated in the Draft Modification Report (issued 09/02/05). This proposed modification is an extension of the DTI Phase III Category 1 data (Close to real-time Flows into the NTS at sub-terminals in aggregated form). After significant cooperation and effort between DTI, Ofgem, Transco and UKOOA, it was agreed that Transco would publish flows into the NTS on an, aggregated, hourly basis. Publishing real-time data as proposed by Energywatch carries the risk of inaccurate and possibly misleading information reaching the wider market, with significant associated confidentiality and liability concerns for Transco, as they have highlighted.

The Energywatch proposal does not recognise this risk, and it also fails to explain adequately the incremental benefits of receiving data flows from each sub-terminal rather than in the aggregated North / South format agreed by the abovementioned parties in the Information Exchange programme in March 2004. Energywatch mentions that rumours about field outages often result in price spikes, with market participants underestimating or over reacting to the impact of the rumour. By having access to near real-time flows in the North/South format, the market will be able to assess the level of supply into the NTS, with little being gained from having access to specific sub-terminal flows. We consider additionally that, as gas trading occurs at the NBP, further disaggregation is unnecessary and could be confusing.

Energywatch also suggests that this Modification Proposal will align the provision of information across the electricity and gas markets, a statement Transco rejects. Not only are the commercial arrangements in the two markets significantly different, but also the parallels drawn by Energywatch are incorrect, no real-time flow information is published in the electricity market, as Transco correctly remarks.

We take the opportunity to note that the Energywatch Cost/Benefit Analysis presented to the NT&T Workstream in January failed to establish clearly the incremental benefits obtained from implementing this Modification Proposal in addition to those obtained and to be obtained from the implementation of the Information Exchange Initiative referred to above, and is based on a number of questionable assumptions.

Total E&P UK PLC supports the provision of relevant gas information to the market. We have actively supported UKOOA in the discussion process that led to the Information Exchange agreement, and we have always cooperated with Transco's TBE planning process. However, we consider that the case in favour of the proposed modification, from a cost benefit and a market improvement perspective, has not been demonstrated. We support Transco's position that the proposed modification should not be implemented. Having participated in the Information Exchange process last year, we believe that its implementation will be sufficient to meet the market's need for greater transparency.

Ofgem itself, in a letter to the industry dated 23rd October 2003 stated that a modification proposal "which required Transco to disclose information which was provided to it on a confidential basis was unlikely to better facilitate the achievement of the relevant objectives if it could be demonstrated that acceptance of such a proposal threatened the continued provision of such information to Transco or if it placed Transco in breach of pre-existing confidentiality obligations". It further stated that by way of example "Ofgem would not normally expect to approve a network code modification proposal which required the disclosure to the wider market of ex ante field specific information that had been provided to Transco in a non aggregated form on a confidential basis". Ofgem continued to say that "information which is disclosed on an ex ante basis should be at a level of aggregation which does not disclose an individual participant's commercial position". This letter was clearly intended to provide comfort to the upstream industry, and the relationship and level of trust gained between Ofgem, Transco, DTI and the upstream industry could be undermined by Ofgem's approval of Modification 727. Furthermore, we believe that if this Modification Proposal were approved, Ofgem would not be fulfilling their duty of carrying out their function in a manner which "is best calculated to secure a diverse and viable long term energy supply"¹. Forcing Transco to disclose confidential data belonging to another party does not create a favourable regulatory environment.

I hope you find these comments useful. Please do not hesitate to contact me if you wish to discuss further any of the issues raised in this response.

Best Regards

Danny Kelly
Commercial Operations Manager
TOTAL E&P UK PLC

(This letter is not signed as it is sent electronically)

¹ Section 4AA Gas Act 1986

