

2 March 2005

Mr Julian Majdanski  
Modification Panel Secretary  
National Grid Transco  
NGT House (D3)  
Warwick Technology Park  
Warwick  
CV34 6DA

Dear Mr Majdanski

**Network Code: 3<sup>rd</sup> Party Proposal  
Publication of Near Real Time Data at UK Sub-Terminals  
Modification Reference Number 727**

UKOOA would like to thank you for the opportunity to comment on your draft modification report regarding publication of near to real time data at UK sub-terminals.

We have pleasure in attaching our comments which we hope will assist you in the preparation of the final report. UKOOA entirely agrees with Transco's recommendation not to support the modification proposal.

If you require any further information, please do not hesitate to contact either David Odling or myself, or either of us via Elizabeth Holloway.

Yours sincerely



Mike Tholen  
Economics & Commercial Director

Copy: Claire Durkin (DTI)  
Steve Smith (Ofgem)

**Network Code: 3<sup>rd</sup> Party Proposal**  
**Publication of Near Real Time Data at UK Sub-Terminals**  
**Modification Reference Number 727**

**Introduction**

UK Offshore Operators Association (UKOOA) which represents 31 operating companies licensed to explore for and produce oil and gas from the waters around the United Kingdom is fully supportive of the work which has been done and the agreements which have been reached in recent years to improve the provision of information about gas production and its delivery into the National Transmission System (NTS).

During the last quarter of 2003 and the first of 2004, UKOOA took part in an extensive programme of discussions initiated and chaired by the DTI which followed on from its public consultation in 2001-2 "Concerns about Gas Prices and Possible Improvements to Market Efficiency." This programme had three phases, the details of which are explained in Transco's draft Modification Report. The outcome is that considerably more information is being made available to help Transco with the planning, management and operation of the NTS and that four categories of information are being (two items) and will shortly be (two items) published in the wider market.

Throughout these discussions, there was recognition by and agreement among all parties (DTI, Ofgem, Transco and UKOOA) that, if detailed information relating to individual company's operations were to be released deliberately or inadvertently to the market, it would cause legitimate and significant concerns regarding commercial confidentiality and liability for any resultant use of the information. This recognition was clearly set out in Ofgem's letter of 23<sup>rd</sup> October 2003, DTI's Minister for Energy's letter of 7<sup>th</sup> November 2003, letters from UKOOA's individual members to both the Minister for Energy and Transco in March 2004 and Ofgem's letters of 23<sup>rd</sup> March and 15<sup>th</sup> April 2004 relating to its consultation on a temporary derogation to SC 4E of Transco's GT Licence.

**Modification 727**

The information which it is proposed in modification 727 should be published is the same information as category 1 of Phase III of the DTI-Ofgem-Transco-UKOOA programme of 2003-4 which Transco estimates will be made available to the market from 1<sup>st</sup> July 2005, except that modification 727 calls for the information by sub-terminal, whereas category 1 of Phase III is aggregated into two UK zones, north and south. In addition, owing to technical limitations with data capture and accuracy, category 1 of Phase III will now be published hourly by Transco, not in real time.

It seems to UKOOA, therefore, that two major issues stand out:

**1: The benefits of implementing Phase III fully are not yet known and will not be for a considerable number of months to come. Until these are known, UKOOA questions the purpose of seeking to take this process a stage further, given the obstacles which would need to be overcome.**

**2: The substantial obstacles to be overcome, if this modification is to proceed, are legal, contractual and technical and ones of data ownership and accuracy, confidentiality and liability.**

UKOOA considers that energywatch's proposal of modification 727 does not recognise the significant benefits to come for all market participants from full implementation of Phase III and the modification does not begin to address the difficult matters in 2 above which were identified by DTI, Ofgem, Transco and UKOOA during those discussions in 2003-4.

### **Issues not Addressed in the Modification**

As mentioned above, energywatch has not attempted to address crucial aspects relating to legal, contractual and technical obstacles, data ownership and accuracy, confidentiality and liability.

Above all, and with respect to the subject matter, UKOOA's members are bound by competition law and contractual commitments entered into with numerous other parties. It was for these reasons that agreement was reached in the Phase III discussions that data should be aggregated into two zones, north and south. Additionally, this aggregation maintains the confidentiality of the information, a point which was recognised by all participants in the discussions. If such confidentiality were breached, it is possible that operators would seek redress and re-consider whether to continue to provide the data. This would not be in the interests of improving the operation of the market.

UKOOA notes that energywatch's proposals adopt a rather over-simplified approach towards contractual commitments: see page 3 of energywatch's additional information paper "energywatch considers that ...**these contracts can be renegotiated**" and again on page 4 "energywatch feels that without the knowledge of producers' actual delivery contracts (**which can be renegotiated**) information on sub terminal flows..." (emphasis added by UKOOA).

UKOOA is surprised that energywatch considers these to be matters which can be resolved with such ease. That is not how UKOOA or its members view them and they would go to the heart of a complex array of contractual and commercial arrangements between a large numbers of parties, every one

of whom would have to be willing to take part in an extensive exercise of renegotiations which energywatch is proposing.

The production of oil and gas offshore involves very large 'sunk' capital costs. Therefore, the pressure on operators is always to maximise production, subject to contractual requirements, while containing costs and operating safely. It is extremely unlikely that this modification will have any effect at all on "competition and efficiency of production", as asserted under the heading "Impact of Information" on page 3 of the additional paper.

Transco has set forth its reservations about technical matters (ref sections 1.2.3 and 1.2.4) and the need, in the interests of accuracy, to publish category 1 information of Phase III hourly rather than in real time. UKOOA can fully understand Transco's concerns with regard to metering of flows, a point which when comparing gas with electricity is probably not generally understood.

energywatch asserts that the information proposed for release under mod 727 is available in the electricity market, but our understanding is that this is erroneous, a point which is confirmed in Transco's draft report. Apart from the various physical differences between electricity and gas which make comparisons difficult, UKOOA wishes to point out that in the electricity market there is no equivalent of risk in the performance of a gas or oil reservoir which offshore producers face at all times.

Transco has also set out the position regarding ownership of information, reflecting the conclusions drawn by the parties to the DTI chaired discussions. UKOOA has nothing further to add.

Lastly, there is the question of liability for the accuracy and use of the data. Without proper safeguards, these are profoundly concerning issues for which there are no simple answers. But energywatch does not mention them or the implications. Clearly, Transco has considerable reservations, as do our members who are most unlikely to agree to this information being published, if it exposes them to liability for its accuracy and use. Again, these matters and the consequences of them were central to the discussions of 2003-4.

### **Cost-benefit analysis**

As stated above, the cost-benefit analysis provided fails to recognise the benefits to come from full implementation of Phase III information disclosure. Therefore, firstly, the calculations have an incorrect baseline and the possible benefits of modification 727 are being much overstated.

Secondly, the figures are almost exactly the same as those used by Ofgem in its current consultation on information disclosure (dated February 2005) which were apparently derived by Barclay's Capital in December 2003, several months before agreement on Phase III information disclosure was reached in

March 2004. It is, therefore, difficult to see how these figures apply to this particular modification.

Thirdly, the calculation is extremely broad in its assumptions. For example “Taking DTI and Ofgem’s **assertions** that increased competition **can** reduce prices by 0.5% ....” (ref. page 5 of energywatch’s additional paper, emphasis added by UKOOA). This makes it very difficult to determine the potential accuracy of the claimed savings.

Fourthly, the effects on gas deliverability of planned maintenance are now published (ref. category 3 of Phase III). However, the sharing of maintenance plans, never mind its co-ordination as energywatch is suggesting, is a competitive matter and is only undertaken where offshore facilities share infrastructure, e.g. a major pipeline, and the shared infrastructure is itself undergoing maintenance, therefore affecting all parties.

Fifthly, UKOOA is puzzled by the claimed need for such detailed information to help the market work, given that trading takes place at the NBP and not at individual sub-terminals. To the extent that there are locational needs within the market, this is already provided by the OCM.

## **Conclusions**

- 1. The existing agreement needs to come fully into effect and experience of it be gained, with lessons being learnt, before any further changes are contemplated.**
- 2. Publication of the detailed information proposed in modification 727 would probably expose Transco and others to claims for breaches of confidentiality and liability risks relating to accuracy and use of such information. The parties to the 2003-4 discussions led by DTI recognised the need to avoid these consequences which would undermine the existing agreement, all as evidenced by the various correspondence referred to in the Introduction above.**
- 3. Transco clearly has concerns about both the practicality and cost of what is being proposed. It is the party most affected by these.**
- 4. The cost-benefit analysis is open to substantial doubt, owing to the fact that its baseline does not take account of the existing agreement and its effects. Indeed, UKOOA firmly believes that the existing agreement will deliver the bulk of the benefits at a lower cost, without exposing any parties to the risks relating to confidentiality and liability.**