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Dear Julian,

Modification Proposals 055 'Extending established Uniform Network Code governance arrangements to include the System Management Principles' and 057 'Extending established UNC governance arrangements to include the Incremental Entry Capacity Release Methodology Statement'.

I am writing further to your request of 24 October 2005 for a view on the above proposals, in accordance with clause 12.8 of the Uniform Network Code (UNC) Modification Rules. Firstly, please accept my apologies for the delay in responding formally, though I note that a provisional view was given verbally to the November 2005 UNC Modification Panel.

UNC modification proposals 055 and 057 seek to respectively make future changes to the System Management Principles (SMP) and the Incremental Entry Capacity Release (IECR) Methodology Statement subject to the approval of the UNC Committee.

Ofgem¹ notes that both of these proposals seek to build upon the principles established by Network Code modifications 717² and 730³, whereby certain procedural documents were incorporated within the governance of the Network Code. More specifically, changes to the documents named within those proposals are now subject to the approval of the UNC Committee, whose membership is parallel to that of the UNC Modification Panel.

System Management Principles

National Grid Gas PLC (NG) produces the SMP in accordance with Special Condition C5 of its GT licence⁴. The original version (1.0) of the SMP Statement was approved by the Authority and became effective on 2nd October 2002. The SMP statement was subsequently revised in April 2005, and a further modification is currently being consulted upon.

¹ Ofgem is the Office of the Gas and Electricity Markets Authority. The terms 'Ofgem' and the 'Authority' are used interchangeably in this letter

² Modification Proposal 717: '*Provision of Supply Point Information Service*'.

³ Modification Proposal 730: '*Extending established Network Code governance arrangements to relevant Transco documents*'.

⁴ Available on the '*e-Public Register*' section of the Ofgem website: www.ofgem.gov.uk

The procedures for revising the SMP are prescribed in the licence, and in summary require that NG shall:

- consult gas shippers, allowing a period of 28 days in which to make representations;
- consult with DN operators where there is a potential impact upon NTS exit capacity, again allowing 28 days for representations, and;
- within 7 days of the close out of consultation, submit a report to the Authority on the outcome of its review, including any representations received in response to its consultation.

NG shall not make a revision to the SMP if the Authority directs it not to within 28 days of receiving NG's report.

Special Condition C5 also provides that it shall send a copy of each statement prepared pursuant to that condition to any person who requests it. Ofgem notes that the SMP statement is available under the '*operational documents*' section of the NG website⁵.

Incremental Entry Capacity Release Methodology Statement

National Grid Gas PLC produces the IECR methodology statement in accordance with Special Condition C15 of its GT licence. Version 1.0 of the IECR methodology statement was introduced in July 2002 and has since undergone a number of revisions, most recently to include a requirement for NG to obtain the written consent of the Authority in order to adjust lead times for the release of incremental capacity⁶.

The procedures for revising the IECR are also prescribed in the licence, requiring that NG shall:

- consult gas shippers, allowing a period of 28 days in which to make representations;
- within 7 days of the close out of consultation, submit a report to the Authority on the outcome of its review, including any representations received in response to its consultation.

NG shall not make a revision to the IECR if the Authority directs it not to within 28 days of receiving NG's report.

Special Condition C15 also provides that it shall send a copy of each statement prepared pursuant to that condition to any person who requests it. Ofgem notes that the IECR statement is available under the '*operational documents*' section of the NG website⁷.

Ofgem view

Whilst Network Code modification 730 was predicated on the lack of formal governance around certain operational documents such as the *Network Code operations reporting manual*, this is clearly not the case in respect of the SMP and IECR which are subject to

⁵www.nationalgrid.com/uk/Gas/OperationalInfo/operationaldocuments/ProcurementSystemManagementServicesStatementsReports/

⁶ www.ofgem.gov.uk/temp/ofgem/cache/cmsattach/12490_213_05.pdf

⁷ www.nationalgrid.com/NR/rdonlyres/2161F25D-73D6-4451-8706-A9136EB7E890/4158/IECRv52FinalProposals5Oct05.pdf

the procedures set out in the GT licence, as summarised above. It could therefore simply be argued that modification proposals 055 and 057 are not necessary. However, Ofgem has also given consideration whether making revisions to the SMP and IECR subject to the approval of the UNC committee would constitute better governance of the SMP and IECR than the existing arrangements. In this respect Ofgem has had regard to the Relevant Objectives of the UNC, best regulatory practice and the principles of good governance previously published by Ofgem and cited in the modification proposals.

The proposer contends that each proposal would, if implemented; 'better facilitate the Relevant Objectives specified within the Gas Transporters Licence by improving transparency and accountability. It also has the means of providing efficient consultation. These factors will contribute both to the efficient and economic operation by the gas transporters of their pipeline system and increase the certainty and confidence of all UNC parties, thereby facilitating competition between shippers and suppliers'.

Both UNC proposal 055 and 057 respectively suggest that although the SMP and IECR documents are circulated and consulted upon from time-to-time, they are not readily available to new users. However, as noted above, both of these documents are available to be downloaded from the NG website. Therefore Ofgem does not consider that these proposals would improve the transparency of the documents themselves. Ofgem also considers that the existing consultation process for these documents to be transparent, given the requirement to notify interested parties of any proposed change and allow 28 days for representations.

At present NG is directly accountable to Ofgem for the production and ongoing revision of the SMP and IECR, in line with the requirements of its licence. It is not clear from the proposals what NG's recourse would be in the event that the UNC committee did not approve a proposed revision to the SMP or IECR, though as it would still be required to discharge its licence obligations, this could involve NG being instead required to raise UNC modification proposals or appeal the matter to Ofgem. Therefore, Ofgem is not convinced that these proposals would improve, but could instead diminish, both the current levels of accountability and the relative efficiency of the SMP and IECR modification process. Moreover, Ofgem considers that these proposals may be contrary to relevant objective c) insofar as they may fetter NG's ability to efficiently discharge obligations under licence, particular with respect to Special Condition C5 and C15, which in turn stem from NG's duties under the Gas Act 1986.

Conclusion

For the reasons set out above, Ofgem is of the view that neither modification proposal 055 or 057 would improve the respective governance of the SMP or IECR and therefore that there would be no benefit in these proposals proceeding. If you have any further questions regarding this letter, or have any suggestions on how consultations on documents outside of the scope of the UNC can be further improved, please do not hesitate to contact me on the above number or email industrycodes@ofgem.gov.uk.

Yours sincerely,



Nick Simpson
Director, Industry Codes and Licensing