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Dear Julian,

UNC 007(728) - Provision and Maintenance of Large Firm Supply Point Emergency Contact Information by the Gas Transporter

This letter is BP's formal submission in response to the draft Final Modification Report (FMR) issued by the Joint Office on Tuesday 14 June 2005, and represents our dissatisfaction with the drafting of the report. Please ensure that this letter is forwarded to Ofgem this afternoon as part of the FMR pack.

BP has a number of concerns over the apparent bias towards the case within the FMR for rejection. Based on the votes being marginally in favour, we believe that the disproportionate treatment of the case for implementation needs to be addressed. In line with the provisions in the UNC we have two working days to respond to the FMR via our Mod panel representative. To this end we spoke with Steve Ladle of Total who expressed our concerns at the Mod Panel meeting on Thursday 16 June 2005. At the meeting it was agreed that BP would draft a note of our concerns which would be appended to the FMR (in line with UNC provisions).

BP is concerned that the content of the FMR does not accurately reflect the responses in a clear, un-biased and independent manner. This is particularly true of our representation which contained detailed responses and counter arguments for all the points raised by Transco in the Draft Modification Report (which was compiled under the old Modification Rules and processes), many of which do not appear in the FMR. The issue is further exacerbated by the negative tone of the report which does not fairly reflect the responses of which five are in support (including one qualified) versus four against.

Below we have provided examples where we do not believe that the report reflects the levels of independence that are expected in a report produced by a Subject Matter Expert in line with the provisions of the UNC Modification Rules. We also note that there is little independent analysis or comment to highlight where there are logical or factual weaknesses in arguments or where opinion is represented as fact.

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Comments Section by Section

2. Extent to which implementation of the proposed modification would better facilitate the relevant objectives

A statement from Transco that says “there is no evidence that if accountabilities were changed there would be an improvement in performance” is included. This is not challenged by the SME as not being reflective of the modification proposal which does not propose any change in accountabilities, with the shipper retaining the responsibility for the data and its provision, a legal and licence obligation, and the relevant transporter merely acting as the shipper's agent in fulfilling a service.

Transco make reference to the GATG proposals not having been afforded the opportunity to take effect. This is true, but not relevant as nothing in the proposal runs counter to the tenet underpinning the GATG proposals which is the adoption of best industry practice. Further, the fact is that the modification proposal was sent to consultation at the qualified recommendation of the SPA workstream after they expressed concern over the slippage within the reporting timescale agreed by GATG such that any possible benefits of implementing the BP proposal for the winter of 2005/06 would be lost.

Transco state that the industry average is poor, but that performance of up to 80% has been achieved and draw the conclusion that this means the existing processes can be made to work. BP's contention that the data supports the centralisation proposal by showing that it is possible to achieve a reasonable level of accuracy individually, but not consistently across a wide number of disparate bodies with different working practices, is not included in the report as a balance to Transco's statement.

4. The implications for Transporters and each Transporter of implementing the Modification Proposal, including

b) development and capital cost and operating cost implications:

Transco identify areas in which costs could be expected to occur and then the FMR contains the following statement: “Transco clarified that costs were not quantified but could be expected to be significant.” Firstly, BP would challenge that providing such a bland statement gives any “clarity”. Secondly, the issue of costs was discussed many times at GATG and Transco could not demonstrate where they would incur significant costs, given that much of the system needed to support the proposal already exists and is in operation within Transco. No reference is made to this in the FMR.

c) extent to which it is appropriate to recover the costs, and proposal for the most appropriate way to recover the costs:

Transco state that “the Modification Proposal did not identify how Transporters would be financially compensated for procuring and maintaining data on behalf of Users.” However, in the next section (4(c)) the SME states that the proposal advocates for recovery of costs via “transportation or other charging”. By repeating Transco's erroneous statement the SME lends it spurious weight rather than challenging it as inaccurate.

5. The consequence of implementing the Modification Proposal on the level of contractual risk of each Transporter under the Code as modified by the Modification Proposal

The purpose of this section is to identify any effect on contractual risk to Transporters of implementing the Modification. It is a legal and licence obligation for suppliers to include in their supply contracts conditions requiring end consumers to provide emergency contact data. Given that this is a legal requirement the statement made by Transco, and repeated by the SME in the FMR, regarding the requirement for robust contractual arrangements it should have been challenged as already pre-existing and therefore not needing to be changed as a consequence of this modification.

The only way in which contractual risk could increase to Transporters would be if liabilities were sought by shippers for non-performance by the Transporters. This is not sought by the Modification.

6. The high level indication of the areas of the UK Link System likely to be affected, together with the development implications and other implications for the UK Link Systems and related computer systems of each Transporter and Users

The system implementation of this Modification was extensively discussed at GATG. The existing database would continue to be used and data would still be updated by existing functionality on change of supplier. Additional functionality would need to be added to allow updating of the data by another means: it was suggested in GATG that the most appropriate means for this would be a web-based interface that end consumers could utilise to modify their own contact details. Use of the same interface would be made by Transco for them to update contact information. To develop a pro-active management process some additional reports would need to be specified and developed. The above scope of work is not extensive and contains nothing to support Transco's assertion (which they could not quantify or demonstrate at GATG meetings) of high development costs.

7. The implications of implementing the Modification Proposal for Users, including administrative and operational costs and level of contractual risk

The FMR states "Users would need to ensure that relevant provisions were incorporated and maintained as a function of the supply contract." As this is already a legal and licence obligation nothing in this Modification has any effect in this area and this statement is unnecessary and could give the erroneous impression that this modification creates additional requirements in this area.

The FMR states "Users may encounter a degree of contractual risk given that a third party (the Transporter) will be performing a maintenance function in relation to the Emergency Contact Information." As this service would be provided under the terms of the UNC, shippers' contractual risk position would be no different than for the relevant transporter providing any other service under the UNC.

8. The implications of implementing the Modification Proposal for Terminal Operators, Consumers, Connected System Operators, Suppliers, producers and, any Non Code Party

The FMR states "In the Draft Modification Report, Transco stated that it believed implementation of this Modification Proposal could lead to duplication and potentially greater levels of error in the contact data held by different parties." This matter was extensively debated at GATG and Transco were unable to defend this position. The conclusion drawn was that this position was reached as a consequence of a misunderstanding of the Proposal (that would result in parties holding different data) rather than the intended implementation of the proposal whereby there would be one centralised industry source of data whereby no duplication would be possible.

The FMR states "Another User that submitted a representation supported this view believing that the Proposal would add a degree of complexity and end consumer uncertainty in respect of the responsibility for the gathering of the Emergency Contact Information." Whilst this may be the User's view, we would point out that end consumers representatives took part in the GATG discussion and were unanimously in favour of the concept of a centralised and centrally maintained system. We would expect the SME to be aware of this.

BP believe and have stated repeatedly that implementation of the Modification would increase accuracy of the data held and as such would have the effect of reducing the levels of error, and not merely be "unlikely to result in greater levels of error" as reported in the FMR.

9. Consequences on the legislative and regulatory obligations and contractual relationships of each Transporter and each User and Non Code Party of implementing the Modification Proposal

The report states that “Transco expressed an opinion that the measures identified within this Modification Proposal are not consistent with these obligations” [obligations detailed in extracts from various legal and licence documents]. In discussions at GATG the legal framework under which Emergency Contact Information is provided was analysed and debated and the group concluded that there is no legal or licence condition that precluded proceeding with the proposal.

It is recognised that Transco’s safety case includes reference to the current practices for gathering emergency contact information. However, as the safety case is the formalisation of existing processes to gain approval by the HSE, it can be changed - as evidenced by the necessary changes that were made to support the sale of four of Transco’s DNs. It is not appropriate to use the requirement to make changes to the safety case as a reason not to make improvements to the process for provision and maintenance of Emergency Contact Information.

I hope that you find our comments helpful. If you would like to discuss them please contact me or Steve Mulinganie on 07990 972568.

Yours sincerely,

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Regulatory Affairs