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Dear Tim

**EDF Energy Response to UNC Modification Proposals 0171 & 0171A: “Amendment of “ser SP Aggregate Reconciliation Proportion” to incorporate historical AQ Proportions.**

EDF Energy welcomes the opportunity to respond to these modification proposals. We support the implementation of both proposals. For clarity we believe that modification proposal 0171 facilitates the relevant objectives to a greater extent than proposal 0171A, and so we prefer modification 0171 to 0171A.

We believe that the current arrangements whereby reconciliations that span a significant space of time are reconciled based upon Shippers’ registered AQ holdings in the month prior to the issuing of the invoice is not cost reflective and creates a barrier to entry for new market participants. This appears to have been recognised by Ofgem in their decision letters on Mod Proposals 0117 and 0122 where they comment that:

“We consider that there may be merit in further review of the apportionment mechanism.”

Both of these proposals address this issue, and so facilitate effective competition between Shippers. However proposal 0171A only facilitates this for future errors, and so has a limited impact in the near term, whilst proposal 0171 facilitates this for all large reconciliations and so has an immediate impact. The arguments made in favour of 0171A appear to focus on the fact that the current arrangements are not cost reflective and so create a subsidy in favour of any Shipper who has lost market share over the reconciliation period. However as these Shippers would have set their tariffs to reflect this cross subsidy it would be unfair to remove it without adequate notice, and use Ofgem’s positions on retrospective mods to support this.

We would further note that Ofgem was not totally opposed to the implementation of retrospective mods in its decision letter on 0117 and 0122, provided that the proposal met one of three criteria, which included mods:

“Where the possibility of a retrospective action had been clearly flagged to the participants in advance, allowing the detail and process of the change to be finalised with retrospective effect. “

It was this criterion that the Proposer of modification 0152V relied upon for the implementation of their proposal, which could have been viewed as equally retrospective as

proposal 0171. We would note that proposal 0171 was raised in September 2007 and has been the subject of numerous discussions in the Transmission Workstream. It could therefore be argued that 0171 meets the same criteria as 0152V, and that Ofgem could direct a later implementation date to further facilitate this if they felt it was prudent.

In relation to the particular issues raised in the modification proposals EDF Energy would make the following comments:

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

**Standard Special Condition A11.1(c): so far as is consistent with sub-paragraphs (a) and (b), the efficient discharge of the licensee's obligations under this licence**

Proposal 0171 will ensure that costs are targeted at those who have incurred them both historically and going forward, however 0171A will only ensure accurate cost targeting going forward. Therefore Proposal 0171 facilitates this objective to a greater degree than 0171A.

**Standard Special Condition A11.1(d): so far as is consistent with sub-paragraphs (a) to (c) the securing of effective competition: (i) between relevant Shippers; (ii) between relevant suppliers; and/or (iii) between DN operators and relevant shippers.**

By ensuring that costs are targeted at those companies who have incurred them, proposal 0171 will remove a barrier to entry for new Shippers, or those who wished to grow their business and so is beneficial to competition. Proposal 0171A will also reduce a barrier to entry and going forward ensure costs are correctly targeted. However until 1 April 2012 when the backstop date will be aligned with the "Proposed Effective Date" all reconciliations that commence prior to 1 April 2008 will not accurately target costs at those who have incurred them. Therefore a barrier to entry will remain until 1 April 2012 and so proposal 0171A does not facilitate this relevant objective to as great an extent as proposal 0171.

**Standard Special Condition A11.1 (f): so far as is consistent with sub-paragraphs (a) to (e), the promotion of efficiency in the implementation and administration of the network code and/or the uniform network code.**

Proposal 0171 creates a simple rule to be applied to all reconciliations that are greater than 50GWh, and so could be seen to facilitate this relevant objective. Further the issue of retrospectivity would be overcome as this proposal has been subject to numerous discussions at both Distribution Workstreams and UNC Mod Panels, and so the industry has had sufficient notice of this proposed change. Were Ofgem to believe that a longer notice period was required then this could be affected through a delayed implementation date.

Conversely proposal 0171A creates complex rules and additional administrative complexities by having one arrangement for reconciliations that impact pre 1 April 2008 and a different arrangement for reconciliations that impact post April 2008. This creates additional complexity and uncertainty for Shippers and so Proposal 0171A could be seen as not facilitating this objective.

**4. The implications for Transporters and each Transporter of implementing this Modification Proposal, including:**

**b. Development and capital cost and operating cost implications:**

Whilst we welcome the note provided by xoserve on the cost of implementing proposal 0171, we would seek clarity from Ofgem whether the costs associated with implementing 0171 and 0171A. Intuitively it would appear that administering two separate reconciliation arrangements depending on the duration of the reconciliation would be more costly and complex than administering a single process.

**7. The implications for Users of implementing the Modification Proposal, including:**

**a. The administrative and operational implications (including impact upon manual processes and procedures).**

For both proposals Users would be required to develop additional validation procedures for these invoices. However the validation procedures for Proposal 0171A would be more complex and costly as the arrangements are more complex, although it is recognised that this additional cost would only be realised until 1 April 2012.

**c. The consequence (if any) on the level of contractual risk of Users under the Uniform Network Code of the Individual Network Codes proposed to be modified by this Modification Proposal.**

Under Proposal 0171A the level of contractual risk for Users would remain the same, however the impact of 0171 on the level of contractual risk would vary by User depending on how their portfolios had changed during any reconciliation period. For Users whose market share had reduced over a reconciliation period, compared to their current holdings, their contractual risk would be increased as they would now be exposed to funding previously unreconciled energy that they had consumed. However for Users whose market share had increased over a reconciliation period, their contractual risk would be reduced as they would no longer be expected to cross subsidise Shippers whose portfolio had reduced in size.

**10. Advantages:**

**Proposal 0171:**

- Removes a barrier to entry for new Shippers entering the market or those who want to grow their market share.
- Improves administration of the code by introducing a simple single rule for reconciliations greater than 50GWh.

**Proposal 0171A:**

- Reduces a barrier to entry for new Shippers entering the market or those who want to grow their market share.

**Disadvantages**

**Proposal 0171A:**

- Creates additional rules and complexities in administering the code.
- Maintains cross subsidy arrangements between Shippers.
- Intuitively more expensive than 0171.

I hope you find these comments useful, however please contact me should you wish to discuss these in greater detail.

Yours sincerely



Stefan Leedham  
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