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15th December 2008

Dear John,

Thank you for your request seeking supplementary representations with respect to proposed changes to the legal text provided for the Uniform Network Code (UNC) Modification Proposal 195AV.

We note that a review of the legal text identified a concern that one part of the text did not reflect the intent of the proposal and that the proposed amendments addresses these concerns. Scotia Gas Network (SGN) is supportive of the proposed changes.

As discussed at the specially convened meeting of the UNC Modification Panel on the 4th December 2008 we understand that the NTS who developed the legal text and the proposer of mod 195AV EON UK, agree that the proposed changes reflect the original intent of the proposal. The panel also determined that a supplementary consultation should be held to give all parties an opportunity to comment on the proposed changes to the legal text and to see if there was any reason why the change should alter the Authority's decision for the approval of Modification Proposal 0195AV.

SGN's opinion

We were concerned that legal text for the proposal went beyond the detail set out in the Modification Proposal 195AV. The legal text must reflect the Modification Proposal and it can not introduce new elements.

The Proposal clearly states that DN's would be required to pay NTS directly for Capacity Charges related to capacity booked at the NTS/LDZ offtake. However there is no reference in the proposal to DN's also being required to pay Commodity Charges. Commodity Charges were added to the Business Rules, developed later as a separate document to help produce legal text. However Business Rules have no legal standing under the UNC and governance arrangements. In this case they also did not form part of the Draft Modification Report which was issued for consultation. The fact that legal text places an obligation on DN's requiring them to pay NTS Commodity Charges is therefore inappropriate.

It has always been our understanding that charging arrangements under Modification Proposal 0195AV would allow NTS to bill DN's for capacity booked at the NTS/LDZ offtake. The fundamental principle underlying this aspect of the proposal was discussed under the TPCR, GDPCR and subsequently provided for under DN Licence. It was also set out in the 2A charging model that was a key part of offtake reform discussions. It was also used by

Ofgem in the Questionnaire - Cost Impacts of Gas Offtake Reform and Incentives (April 2008). The principle behind this decision was that as DN's would have some discretion over the level of capacity booked at the offtake, therefore they should face the charges directly. The DN's would then be responsible for recovering capacity costs from DN connected Shippers. This was reflected in our response to the Ofgem questionnaire and our response to mod 195AV, but no account was taken of Commodity Charges.

Discussions during DN sales and during GDPCR acknowledged that whilst Shippers had choice and control over the level of capacity booked, they did not have the same level of control over throughput as this is demand driven. As such Commodity was never included as an aspect of the "2A charging model". Licence drafting allows DN's to recover capacity related charges from DN connected Shippers only, not Commodity. It would therefore be wholly inappropriate for DN's to pay Commodity Charges. Should the DN's be required to recover Commodity Charges through its own DNO transportation charges, there would be a cash flow issues and a credit risk to which we would be exposed to for no benefit.

Accordingly, with regard to the above information we do not believe that the original legal text accurately reflected the proposer's intent in respect of DN's liability for NTS Exit Commodity Charges. It is also inconsistent with the DN price control. Consequently SGN's view is that the proposed change to the legal text should be made. We also do not believe that this should alter the Authority's decision to approve the Modification Proposal 0195AV.

If you require any further information in respect of this representation please contact Steven Sherwood on email Steven.Sherwood@scotiagasnetworks.co.uk

Steven Sherwood
Scotia Gas Networks