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Dear John

"UNC Modification Proposal 0246 "Quarterly NTS Entry Capacity User Commitment" and its variants 0246A and 0246B

Thank you for the opportunity to comment on the UNC Modification Proposal 0246 and it's variants. BP supports the implementation of 0246B, but does not support 0246 or 0246A.

BP would like to make it clear that is does not feel that the more pressing issue of National Grid recovering £20m/pa for the next 5 years from October 2009 (despite the lack of investment carried out) is in any way being addressed by the Modification Proposals. We recognise that the resolution lies outside of the scope of Review Group 221 and any subsequent Modification Proposals; however, the '£20m/pa question' is also related to the problems being addressed by Mod 0246. Therefore the funding issue still requires additional attention before October 2009, and merits a separate review.

BP is also somewhat disappointed that Modification Proposal 0246 was published before the conclusion of Review Group 221. Mod 0246 is intent on rushing through a set of arrangements that do not fully reflect the discussions and conclusions of the Review Group. This clearly undermines the value of the time spent by the attendees of that group to attempt to find a solution to the complex issues identified.

Overall BP welcomes any endeavour to reduce the risk and exposure to the shipping community in dealing with the NTS. UNC Modification Proposal 0246 and its variants all seek to reduce or even nullify speculative bidding behaviour, which aids the achievement of Standard Special Condition A11.1 (a) in securing a more efficient and economic operation of the NTS, and Standard Special Condition A11.1 (c) by enhancing user commitment and avoiding unnecessary investment.

Not being able to defer your capacity commitments is an essential part of preventing speculative bidders from taking advantage of the current QSEC auction procedures at a cost to other shippers. This issue was identified by Review Group 221 and has been rightly included by Modification Proposal 0246 and its variants. The Review Group also identified the issue of providing security during or after a QSEC auction – this would be far too complex, or would ultimately not provide any new improvements on the current process.

Instead the pre-auction top-up method offers a much simpler approach that is also able to provide the necessary security sought by shippers. Again, this was picked up by Mod 0246.

Where 0246B differs from the other proposals is that it advocates a more realistic approach in the use of credit ratings, while avoiding taking a retrospective view of capacity holdings, and only applying the new rules to new capacity. BP feels that both of these issues are fundamental to the achievement of Standard Special Condition A11.1(d) in securing effective competition.

The use of credit ratings in assessing how much credit a shipper has to provide makes commercial sense, as a credit rating is an assessment of that commercial entity's ability to fulfil its financial commitments. Without the use of credit ratings, there is no way of being able to categorise the real risk of default. Simply put, a company with a better credit rating than another company with the same value of capacity holdings should have to put up less credit as it poses less of a risk to the shipping community. In addition to this, excluding the use of a parent guarantee as a means to providing credit is unnecessary as it denies some companies the ability to provide credit from a source that is as secure as a letter of credit or a deposit deed.

The non-retrospective nature of 0246B is also a welcome difference of this proposal to 0246 and 0246A. BP agrees with the proposer of 0246B that existing capacity holdings were bought by Users on the basis of the rules, and associated costs, in place at the time of purchase. These new proposals increase the cost of holding capacity bought in a QSEC auction, and Users will only have a short period of time after the implementation of the proposal to organise new or extend their existing credit lines. For some Users this could be a very significant amount of security. Indeed, if Users had known of this additional cost, they may have exercised very different bidding strategies. As the change proposed is fundamental in terms of altering the cost of taking part in a QSEC auction, it is preferable to only apply the new rules to future QSEC auction bids.

A major caveat that exists with Modification Proposal 0246 and it's variants, is that they lack the quantification of any benefits or drawbacks. This makes it impossible to weigh up the cost or benefit of choosing one methodology above the other – how does one know that the expected benefits of putting up credit in advance does in fact outweigh the risk to shippers of having to pick up the cost of a defaulting shipper? No such analysis has been carried out, and so clearly impairs judgement of whether these proposals are in fact more economic and efficient than the status quo. Therefore before any implementation decision is made, BP requests that Ofgem carry out an impact assessment.

Finally, BP also has reservations regarding two separate credit arrangements that would run alongside one another if any version of Mod 0246 is implemented – the new QSEC based capacity credit arrangements, and the 12 month rolling deadline for all capacity as set out under Section V of the UNC. This makes the process more time-consuming, complex and costly, as two separate credit lines have to be opened. Particularly hard hit will be new entrants or smaller players, who will have to administer these two credit arrangements (as well as transportation credit), and may lack the resource to be able to do so effectively. The question is whether such an approach really is economic and efficient.

If you have any questions on the above points, please do not hesitate to contact me.

Yours sincerely

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