

Transmission Workstream Minutes
Thursday 02 September 2010
Elxon, 350 Euston Road, London NW1 3AW

Attendees

| | | |
|--------------------------|-------|------------------------|
| Bob Fletcher (Chair) | (BF) | Joint Office |
| Lorna Dupont (Secretary) | (LD) | Joint Office |
| Ale-jan Algra | (AA) | GasTerra |
| Ben Woodside | (BW) | Ofgem |
| Charles Ruffell | (CR) | RWE npower |
| Chris Wright | (CW) | Centrica |
| Colin Thomson | (CT) | Scotia Gas Networks |
| Fergus Healy | (FH) | National Grid NTS |
| Fiona Gowland | (FG) | Total E & P |
| Graham Jack | (GJ) | Centrica |
| Guy Hannay-Wilson | (GHW) | Chevron |
| Jacopo Vignola | (JV) | Centrica Storage Ltd |
| Jamie Black | (JB) | Ofgem |
| Jeff Chandler | (JC) | SSE |
| Joanna Ferguson | (JF) | Northern Gas Networks |
| Nick Reeves | (NR) | National Grid NTS |
| Rekha Theaker | (RT) | Waters Wye Associates |
| Richard Fairholme | (RF) | E.ON UK |
| Richard Miller | (RM) | Ofgem |
| Ritchard Hewitt | (RH) | National Grid NTS |
| Rob Cameron-Higgs | (RCH) | Wales & West Utilities |
| Shelley Rouse | (SR) | Statoil |
| Stefan Leedham | (SL) | EDF Energy |
| Sue Ellwood | (SE) | TPA Solutions |
| Tom Jessop | (TJ) | ConocoPhillips |

1. Introduction

Copies of the various presentations are available to view and/or download from the Joint Office web site at <http://www.gasgovernance.co.uk/tx/020910>.

BF welcomed attendees to the meeting.

1.1 Minutes of the previous Workstream Meeting

The minutes of the previous meeting (05 August 2010) were accepted.

1.2 Review of Outstanding Actions

Action TR0801: Proposed Manifest Error Procedures - National Grid NTS to provide data/analysis to inform the materiality threshold, and also where a cut-off point might best lie.

Update: Covered under 3.2 below. **Action closed**

1.3 Review of Workstream's Modification Proposals and Topics

1.3.1. Modification Status Report (Modification Proposals Register)

The Modification Proposals Register is available to view at: <http://www.gasgovernance.co.uk/mods/>.

An update was given on live and recently closed Modification Proposals.

1.3.2. Topic Status Report

The Topic Status Report for the Transmission Workstream is located on the Joint Office website at: <http://www.gasgovernance.co.uk/mods/>

1.3.3. Related Meetings and Review Groups

Review Group 0291 – The next meeting will be held on 10 September 2010, with a further meeting planned for 20 September 2010.

RM then gave a brief update on Ofgem's activities.

Current consultation on what constitutes a relevant point on the System (2nd Directive) – this was now closed and responses were under consideration. In the next couple of weeks, it was hoped to issue a to change the Licence.

CR asked for clarification on the timing of the 3rd Energy Package and RM agreed to report back.

Action TR0901: Clarify the timing of the 3rd Energy Package and report back.

Proposal to add Moffatt as an entry point – consultation closes on 15 September 2010.

Code Governance Review Modifications – A letter was issued on 12 August 2010 opening the consultation; responses should be submitted by 27 September 2010.

2. UNC Modification Proposals

There were no new Modification Proposals for review and discussion.

3. Topics

3.1 Draft Modification Proposal: Update to the default System Marginal Buy Price and default System Marginal Sell Price

NR gave a presentation outlining the background and the intent of the proposed change and explained what National Grid NTS perceived the benefits might be. The current prices were set out in UNC TPD Section F. Responding to a question from JC on the sensitivity of price, NR said that compressor fuel costs had been relatively stable over the past few years.

National Grid NTS was taking into account developments in Europe seeking to align gas codes and adopt best practice, as well as seeking to improve transparency in this area.

Discussions had been held with xoserve regarding the meeting of the proposed implementation date of 01 April 2011, and the indications were that this was a fairly tight timeline. NR then asked the Workstream if it felt that this Proposal was sufficiently developed to proceed, and a wider discussion ensued.

RF believed that further development was required, and stated that he did not understand why increasing the number should foster the belief that it would lead to better balancing. Balancing behaviour had not been a problem, so why change? It was pointed out that this proposal was not based on a consensus view of Review Group 0291, but was National Grid's view. RF observed that greater justification must be demonstrated as to how it furthers the relevant objections, and it should be made clear that this is only National Grid's view and not that of the Review Group.

RT questioned whether more transparency would actually result. NR described how he believed this would be delivered via more up-to-date values. RT pointed out it may be more cost reflective, but this did not necessarily make it more transparent, and the move away from fixed values to values yet to be determined by the Transporter was detrimental to setting up of contracts – prices would not be able to be included, resulting in less certainty and arguably less transparency. RH believed there was a balance to be struck as to when the figures could be produced; annually seemed an appropriate default to National Grid NTS. RF pointed out that the Review Group had not been in favour of an annual review.

BF questioned the timescales put forward to meet the Panel meeting, and NR indicated that a formal Modification Proposal would be raised by 08 September 2010. In response to other questions RH explained that following assumed implementation on 01 April 2011 the first review would then take place in the summer, so that any appropriate change could be made for September/October.

SR pointed out that the User Pays section had been left blank, and NR replied that this was under consideration.

RF asked if the formal proposal would show detailed workings as to how the figures have been reached, observing that actual numbers would be useful rather than just an explanation on its own, and would certainly be beneficial in terms of the consultation phase. It was also suggested that NR produce the figures in time for the next meeting of Review Group 0291.

Given the tight timescales for formal raising of the Proposal RH requested that any further comments be communicated to National Grid NTS as soon as possible to enable the proposal to be revised if appropriate.

3.2 Draft Modification Proposal: Manifest Errors Procedure related to Overrun Charges

SE briefly recapped on the issue experienced by GasTerra, and then gave a presentation that had taken account of the discussions and suggestions made at previous meetings and now provided more detail to begin to formulate a modification proposal. SE set out the scope, and then went on to explain various aspects in more detail. Each aspect was discussed in turn, and views were sought from those present.

Administrative Fees/Materiality

SE presented the figures provided by National Grid NTS that gave a picture of the number of overruns and the magnitude of associated charges over the last 10 years.

FH commented that National Grid NTS would support an administration fee of £5,000, and would only consider claims relating to a daily threshold of over £50,000. It was thought that there would be very few of this nature; smaller overruns should not be encouraged to enter this process (there were concerns that this would be too time consuming and expensive to administer, and would undermine the current process). FH questioned whether this should be the responsibility of the Transporter or the Transporters' Agent. SE believed the fee would fund the process and this would go to the appropriate party.

RF agreed that the threshold seems sensible to avoid undermining the overrun regime. RCH was concerned to understand what may happen if a Shipper overran by £49k on one day, and £50k the next, how this might be treated – separately or in aggregate? SE believed a different analysis would be required for an aggregated view.

Claiming Manifest Error

FH was not convinced that National Grid NTS should be responsible for notifying the industry of such an occurrence, but could pass on to an appropriate party to notify a wider audience.

In respect of time limits, SE suggested it be in line with the financial year. SL pointed out that under the BSC only 4 hours was permitted, but admittedly the timescales in gas are different to those of electricity and this might equate to 8 days in gas terms.

FH questioned that this presupposed that a party would only know of its overrun after the invoice date. Was this correct in the Shippers' view? Would it not be monitored on a daily basis? TJ suggested that an error might be identified a few days prior to CVA closeout. This 'open window' is a key element of the proposal and Shippers' views on what constituted a reasonable time limit to identify an error of this nature would be welcomed.

RM commented that Ofgem was happy for a Manifest Error mechanism to be developed, and stressed that a proposal focused towards high-level principles would stand a better chance of furthering the relevant objectives, rather than one trying to address a particular incident. SE understood this and pointed out that there is no appeals process at present (GasTerra had already raised a trading dispute/claim with National Grid) and this was trying to put a sound process in place for the industry for the future. AA briefly explained the steps that GasTerra had taken following identification of the error, and reiterated that no special treatment was expected or to be provided through this proposed Modification.

CW was of the view that there might be more sympathy for the proposal if it included the Gemini change to prevent a month's overrun, and referred to Modification 0152 that had established an accepted period of retrospection; a strong reason would have to be given to justify why this proposal does not encompass that concept. SE indicated that she was happy to consider a 4-5 year cut off, but had gained the impression from last month's meeting that this was considered to be too long a period. CW believed that it should be stated in the proposal why 4-5 years was not an appropriate period in this specific case. SL gave a particular example of an overrun position experienced by EDF Energy where the error had been identified the following day; in his view 8 days would be a more acceptable period, together with a flag.

It was suggested that a quick solution would be to obligate National Grid NTS to contact a party if a potential error was noticed. It was pointed out that National Grid NTS was not privy to Shippers' commercial strategy/decisions and would prefer not to form judgements that would be based heavily on assumptions that a Shipper 'may have made an error'.

FH pointed out that any system changes required might result in timeframe delays and this would become a User Pays modification, as system functionality would be changed for the Shippers' benefit. SE argued that this functionality should already have been in place; a change to Gemini might be raised as a simultaneous modification rather than be included in this one.

FH indicated that not going back beyond the financial year would be National Grid NTS' preference, and agreed to ascertain the parameters/constraints of this and report back to SE and the Workstream.

Action TR0902: Ascertain the parameters/constraints of the financial year in respect of utilising this as a potential claims period for Manifest Errors and report back to SE and Workstream.

RF pointed out that the retrospective element was of concern, as applying this may undermine concepts in other areas; previously Ofgem have given the industry to understand that retrospective application was not favoured. FH echoed this concern and added that National Grid NTS did not support 'retrospective' proposals. SE recognised that the inclusion of a retrospective element would need to be justified, and addressed to make sure that there were no adverse/unfavourable consequential issues arising. Limiting it to the financial year would not deny other parties recourse to other remedies as appropriate, she believed.

Notification of Manifest Errors

In response to a question from BF, SE confirmed notification would be expected to take place within normal business/working hours.

RF believed a value should be notified to enable notified parties to calculate/address any financial implications on themselves. As the proposed minimum threshold was likely to be set at £50k and above, SE suggested that this might be deemed a sufficient indicator of significance, but agreed that some indication of value could be incorporated into the notification.

FH pointed out that National Grid NTS was unlikely to have appropriate lists/contact details for notifying a wide audience. RH advised against the use of ANS as this route was used for a very specific purpose, and also this did not communicate with the commercial contacts of businesses. RH suggested that it could be worded such that it was the "relevant Transporter's obligation to inform....." and this might provide flexibility.

SE then asked for views on using the Joint Office of Gas Transporters as a communication route. BF briefly explained how communications were made to the wider industry, and SE believed this might provide the most appropriate route.

Determining Body – UNCC or Expert?

RF asked if a guidance document would be provided to make clear what the determining body was to address, what criteria to use, etc. SE confirmed that it was the intention to develop this to support the process of deciding what constituted a genuine Manifest Error, and what a party should pay as a result. RCH observed this might be more of a judgement role, and that DNs do not have the experience to adjudicate in these areas – any judgement exercised would perhaps need to be based on the experience/expectations of other professional Shippers in respect of the behaviour of a prudent Shipper. FH and JF echoed this view. BF presumed that the determining body might be set up along the lines of the EBCC, with Shipper members. SE then asked who might form an appropriate body for judging Transporter errors, and suggested that the Transporters may like to consider raising their own proposal.

SL observed that if an existing body were not utilised to perform the envisaged functions then the proposal would have to include the details of the founding of a new body with all the associated formal administrative details that went with setting up. If the right guidelines were in place then it could be governed by the UNCC which could also have the power to appoint an expert.

RF questioned the expectation of a 'sympathetic attitude' of any Shipper body towards errors of this nature as they could be seen as 'beneficiaries'. SE acknowledged this concern, but understood that the EBCC seemed to operate in an acceptable impartial fashion. RF pointed out that the EBCC had no power to

reduce/remove/cancel/disallow the liability for payment of energy balancing charges from any party or to expunge any debt. BF added that the EBCC met on a regular basis and was therefore able to build up experience in given situations; this would not be the case in respect of a body set up to adjudicate on manifest errors as the assumption is that these would be a rare occurrence, and the process may therefore suffer from a lack of knowledge.

In response to a question from RCH, SE confirmed that it was intended that the process would always be more expensive for a Shipper to invoke and payment at a reasonable level would always be expected to be made.

Determination – Requirements to provide evidence

SE confirmed that if there was buyback on a day, then a claim could not be made (unless there may be a case where a small buyback has been made that is not a consequence of the manifest error? – in which case SE would not want to entirely exclude buyback days).

FH confirmed that National Grid NTS would provide whatever information was requested. It was suggested that some data may be required to be mandatory and FH agreed to consider what this might include and provide a list for review/discussion.

Action TR0903: Consider and list what mandatory data may be required to be provided in evidence in respect of a manifest error claim.

RCH observed that it was likely that any second or subsequent claims made by the same party within a short period would be viewed/received less sympathetically; however it was acknowledged that over a longer period it was possible for a party to experience further manifest errors maybe as a result of different causes.

Determination – Criteria for Valid Manifest Error

The onus would clearly rest with the claimant to prove to the determining body the genuineness of the mistake that been made.

Determining Adjustments – What should a Claimant pay?

SE confirmed that the ‘outcome’ of any claim should not be capable of being ‘predetermined’, hence the inclusion of at least 2 reference costs for use by the determining body. Prudence and proportionality were important considerations in determining what a claimant should pay. RF added that the test is, had the Shipper taken reasonable steps bearing in mind their clear obligations under UNC. Guidance should be kept simple and clear, and there should be no precedence set for treating ‘new entrants’ differently. The workings of the determining body must be transparent and it must be able to justify any decision reached.

RCH questioned if there should be an upper and lower limit on payment setting for successful appeals. SE would appreciate views on this.

BF questioned the voting parameters; SE envisaged that it would follow the prevailing rules of an existing Committee if such were appointed to the task, or by a majority vote.

Implementation (Payments/recovery/Credit Issues)

SE would welcome views on whether National Grid NTS or xoserve should benefit from the fee paid.

JF observed that under the energy balancing regime the accepted principle was ‘pay first/query later’. SL referred to rules relating to capacity charges queries, which were different, and pointed out that the credit requirements were also different. SE acknowledged difficulties in this area. It was believed there was

sufficient room in the capacity rules to raise an invoice query and not pay; withholding payment may generate sanctions and a pragmatic decision may be required in terms of a principle.

SL commented that accounting was difficult when it was known that something was going to 'disrupt the normal process' but without knowing exactly what/when, etc. This was another argument for dealing with any such claims as quickly as possible.

FH pointed out that 'manifest error' might need to be considered as a specific 'reason'. SE noted this and indicated that she would review UNC TPD Section S to ascertain that no perverse incentives were created.

Appeals

RCH commented that this assumes that only the claimant can appeal; SE confirmed this, and added that perhaps a separate proposal could be created in respect of appeals. The fall back position was Ofgem.

Next Steps

SE would review comments and suggestions from today's discussions and any further feedback would be appreciated. A draft Guidance document will be prepared for review and discussion, together with a draft Modification Proposal.

4. Any Other Business

4.1 Modification Proposals 0246/0246A/0246B: Quarterly NTS Entry Capacity User Commitment

RH reported that following the rejection of these Proposals, National Grid NTS had given more consideration to the points raised in Ofgem's letter and would be drafting/raising a Proposal by the end of next week.

4.2 Gas System Operator Incentive Review – Timelines for SO Incentives

RH gave a brief presentation, reporting that the incentive arrangements for Operating Margins and the NTS Environmental Incentive expire in March 2011 and was under review, with the aim of having the new incentives in place for 01 April 2011. RH outlined the timeframe and added that consultations and workshops would be communicated through the SO Incentives mailing list operated by National Grid NTS. Further information could be obtained from the contact details provided on the presentation, or via the website: www.nationalgrid.com/uk/gas/soincentives.

In response to questions from RT, RH added that if it were felt appropriate for the current linepack incentive to change then this would be looked at separately.

5. Diary Planning

The next Transmission Workstream meetings are scheduled as follows:

10:00, 07 October 2010, at Elexon, 350 Euston Road, London NW1 3AW.

10:00, 04 November 2010, at Elexon, 350 Euston Road, London NW1 3AW.

10:00, 02 December 2010, at Elexon, 350 Euston Road, London NW1 3AW.

Further details of planned meetings are available at:
www.gasgovernance.co.uk/Diary.

Action Log – UNC Transmission Workstream: 02 September 2010

| Action Ref | Meeting Date(s) | Minute Ref | Action | Owner | Status Update |
|-------------------|------------------------|-------------------|---|------------------------|----------------------|
| TR 0801 | 05/08/10 | 3.1.1 | Proposed Manifest Error - provide data/analysis to inform the materiality threshold, and also where a cut-off point might best lie. | National Grid NTS (MW) | Closed |
| TR 0901 | 02/09/10 | 1.3.3 | Clarify the timing of the 3 rd Energy Package and report back. | Ofgem (RM) | Pending |
| TR 0902 | 02/09/10 | 3.2 | Ascertain the parameters/ constraints of the financial year in respect of utilising this as a potential claims period for Manifest Errors and report back to SE and Workstream. | National Grid NTS (FH) | Pending |
| TR 0903 | 02/09/10 | 3.2 | Consider and list what mandatory data may be required to be provided in evidence in respect of a manifest error claim. | National Grid NTS (FH) | Pending |