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Cc: Bogdan Kowalewicz, Gas Transmission Policy, Ofgem

Wednesday 19th March, 2008

Dear Chandima,

RE: Transmission Planning Code

Whilst we welcome the introduction of a 'Transmission Planning Code', which we hope will provide genuinely useful information and increased transparency for users of the system, we believe an initial review of both the scope and governance of the proposed Transmission Planning Code¹ must be carried out before any meaningful progress can be made in developing the content.

In the 'Initial Proposals' TPCR consultation Ofgem stated that it would be undertaking a:

"wide ranging review of NGG's forecasting and network planning which will deliver greater transparency and clarity for system users and help to ensure better consistency, especially when faced with changing patterns of flow across the NTS network in future."

We believe this would be an extremely useful exercise to undertake, not only as it "sets the scene" but also because it should inform the scope and content of the TPC itself. As far as we can see, however, this first important step appears to have been omitted and we are now straight into consulting on the detailed content of the TPC. Indeed, it seems the TPC is now informing the "review", rather than the other way around. Due to obvious information asymmetry, it is hard for Users to comment at this early stage on the proposed content when we are missing the supporting analysis that the Ofgem-initiated review should have provided. We are not clear at this stage whether the proposed process, as set out by National Grid (NG) in this open letter, will fulfil Ofgem's original objective of evaluating the Transporter's policies and methods, or seek merely to summarise and consolidate the existing arrangements.

¹ hereafter referred to as the "TPC"

The Licence Condition

Before considering the scope of a TPC, we consider that an evaluation of how the licence condition developed through the last Transmission Price Control Review (TPCR) would be a useful starting point for many industry participants, since most will not be aware of the extent of the changes between Ofgem's initial proposals and the implemented licence condition.

One observation is that the scope of the proposed TPC (as described in the initial licence proposals) differs significantly from the implemented licence condition. There appears to be a lack of transparency in terms of how and why the licence condition changed so significantly. Indeed, even as late as "Open Letter: TPCR: 3rd consultation on draft licence modifications - 117/07" (published 16/05/2007) the TPC was very different from the current licence condition. The scope was much more detailed and was set out, as following:

"3. The licensee's transmission planning code shall include the following:

- (a) specification of the design criteria and procedures to be applied by the licensee in the planning and development of the licensee's gas pipe-line system and to be taken into account by persons connected or seeking connection with the licensee's gas pipe-line system in the planning and development of their own plant and systems;*
- (b) criteria to determine the physical capacity of the gas pipe-line system taking into account the baseline and purchased entry and exit capacity, together with statutory network security standards;*
- (c) a method to identify the amount of capacity that may technically be substituted or transferred between nodes;*
- (d) criteria to determine the appropriate level of duplicated spare equipment;*
- (e) criteria to determine the appropriate level of flow margins;*
- (f) a method to determine line pack or flexibility available at each node of the gas pipe-line system;*
- (g) a method to identify the physical ability of the gas pipe-line system to accommodate incremental flows at a given entry (exit) node as flow at another entry (exit) node is reduced;*
- (h) criteria for identifying the rate of change of flow that can be accommodated at each node;*
- (i) criteria for identifying maximum and minimum pressures at each node..."*

In National Grid's letter of 16th February 2007, it is stated that they felt that proposed licence condition C11 was "too prescriptive" and that it should be re-drafted to focus it upon obligations set out in section 9(1)(a) of the Gas Act 1986 ("It shall also be the duty of a gas transporter to facilitate competition in the supply of gas"). This could be reasonably interpreted as indicating that National Grid considered the original detailed proposals had the potential to release too much information on the operation of the NTS to users. Whilst we understand this concern, it must equally be weighted against the needs of shippers to understand and manage our risks in the marketplace. For instance, the transfer of increased risk onto users from National Grid via increased user commitments makes it all the more important that we are able to understand and manage the risks facing our business. Whilst

there may be concerns about releasing certain information into the public domain, this does not mean that a completely risk-averse approach is the best (or indeed, only) option for National Grid.

In summary, we believe that by understanding the history and development of the licence condition, the industry will be in a better position to gauge whether the remit of the TPC is still clear and appropriate. We believe this is an important issue that must be dealt with first, before launching into a consideration of the detailed content.

As far as we can see, the concept of a Transmission Planning Code first appeared in the TPCR 'Updated Proposals' document in September 2006:

“The Initial Proposals document raised the need to review the application of the 5 per cent margin on the 1 in 20 scenario peak day flow when planning future network capacity. Having considered advice from our consultants and responses to the initial proposals, we believe that reforming the flow margins alone may not yield the best solution for consumers and network users. This should be considered as a major component of a wider ranging review of NGG's forecasting and network planning which will deliver greater transparency and clarity for system users and help to ensure better consistency, especially when faced with changing patterns of flow across the NTS network in future. It is planned to consult on these issues after the Final Proposals are published in December.”

In addition, Ofgem's 'Final Proposals' document stated that:

“We [Ofgem] plan to initiate work with NGG in this area soon after the implementation of the next price control...This will require considerable input from NGG in undertaking the necessary detailed analysis and network modelling work which will underpin the review, and in developing the material for workshops and consultation documents, as well as in exploring the options for reform of the present methodology. In addition to providing greater transparency on NGG NTS's investment decisions for network users, this work will hopefully improve the quality of information available - and the framework for analysis - for future price control reviews.”

What is clear from the quotes above is that there was meant to be a thorough review of NG's approach and assumptions underpinning the planning and development of the network. It is unfortunate that the opportunity to do a detailed review may now have been lost given that the licence condition ostensibly must be fulfilled in time for the 1st October 2008 deadline. Mindful that Ofgem had indicated it was likely to begin consideration of the issues in early 2007, it would seem that we (or indeed, Ofgem) are now left with very little time in which to consider the complex issues that would inevitably arise from a “wide-ranging” review. This does not, however, mean that the opportunity is completely lost. Rather, it highlights the need for Ofgem to engage fully in the development and scoping process to leverage as much benefit for the whole industry as possible. Moreover, this is extremely important given that Ofgem had intended this review to inform the next TPCR process.

Governance of the TPC

We are somewhat surprised that the detailed governance arrangements for the TPC as described in the proposed licence modifications have been watered down in the current licence condition. This is most evident by the removal of the provision for change proposals (or alternative proposals) by parties other than the licensee. It is not clear in the development of the licence condition why the governance arrangements were altered so late in the process.

As part of the scoping exercise for the TPC, some clarity from National Grid or Ofgem would be welcomed on the rationale for changing the proposed TPC governance arrangements; a particularly pertinent issue given the current Ofgem governance review now in progress.

Impact on the UNC

It is not entirely clear how this proposed TPC would impact on the commercial terms contained within the UNC. We are concerned that if the TPC is to become a compliance statement, then this could restrict the ability of users to raise changes to the UNC; most notably on the subject of capacity trade and transfer. Care must be taken to ensure the TPC is not over-prescriptive, so as to dictate additional requirements for future code changes. Consequently, we would welcome clarity from National Grid and Ofgem on how the TPC is likely to interact with the UNC (and indeed the existing methodology statements) as this is not yet clear.

I hope you find these comments useful in informing the way forward on this issue, but if you wish to discuss them in any more detail, please do not hesitate to contact me on T: 02476 181421.

Yours sincerely

Richard Fairholme (by email)

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