

HSE Hazardous Installations Directorate
Head of Unit: Steve Wing

Sonia Brown
Director, Transportation
Office of Gas & Electricity Markets
9 Millbank
London
SW1P 3GE

Date: 8th July 2004

Dear Sonia

Offtake Arrangements Regulatory Impact Assessment

1. I write in response to the Offtake Arrangements RIA published in June, and on which you invited comments.
2. I understand and appreciate the duties of the Authority and Ofgem's regulatory objectives outlined in Chapter 3 of the RIA, and the key economic and competition related issues outlined in Chapter 4. HSE's role in this is much narrower, focussing specifically on safety and in particular implementation of the Gas Safety Management Regulations 1996 (GSMR) as they affect the safe management of the flow of gas. The starting point for this is a gas transporter's safety case which must demonstrate how they will meet the criteria for minimising the risk of a gas supply emergency (including ensuring continuity of supply) derived from GSMR.
3. In addressing the issues raised by the proposed sale of DNs, including proposals for change from Ofgem such as those outlined in the RIA, the general test HSE applies is whether the new arrangements are likely to be as safe as existing or better.
4. Applying this to the options outlined in Chapter 5 of the RIA, we note that Ofgem favours a move to a Shipper booking model (Option 4) under which shippers would request their exit capacity direct from the NTS and as a consequence of which the "1 in 20 obligation" would be removed from DNs.

5. We would have some serious concerns over this approach, though we welcome the recognition in 5.35 that if this model is still favoured after the current RIA consultation there would need to be further consultation and consideration of what measures would be required to minimise the risk of a gas supply emergency (of which continuity of supply is one aspect).

6. Our concerns over Option 4 centre on 3 areas:

- (i) The current safety legislation does not give us any powers to influence shippers, and the move to a shipper-led process would detract from the demonstration gas transporters currently have to provide regarding this aspect of continuity of supply. If there were a move to a shipper-led process and subsequently trends were set which could lead to an increase in the risk of a gas supply emergency, we would have no powers to regulate shippers similar to the ones we currently have over gas transporters.
- (ii) Under its current safety case, Transco describes arrangements for meeting two '1 in 20' standards – to ensure there are sufficient supplies of gas to meet a 1 in 20 peak day demand and to plan and develop its network to enable them to convey sufficient gas for a 1 in 20 day. The 1 in 20 obligation is a well-established benchmark for securing continuity of supply and to meet capacity requirements. Using our test of 'safe as existing or better' we would need to be satisfied that any new arrangements at least matched the security provided by this.
- (iii) Adoption of this model would require sufficiently robust commercial incentives for shippers to get their capacity planning demand accurate, and not to under-book or over-book. We do not see such commercial incentives as being an adequate substitute for the 1 in 20 obligation. If this was the case we would expect equally effective measures to be introduced to ensure there is no increase in the risk of a gas supply emergency.

7. As regards Options 1 to 3 (and their variants), if we understand the fundamental differences correctly we consider that Options 1 or 2 would enable gas transporters to meet current GSMR requirements to show in safety cases how they meet the criterion for security of supply. But Option 3, as another shipper-led model, would introduce the same concerns as outlined above except that for the 1 in 20 obligation, which would be retained by DNs under this option.

I hope these comments are helpful.

Yours sincerely

P N SCOTT

HM Principal Inspector of Health and Safety

Project Manager, HSE Response to DN Separation Proposals