

Kyran Hanks,  
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Dear Kyran,

26<sup>th</sup> September 2003

**National Grid Transco – Potential sale of network distribution businesses**

The Gas Forum is pleased to have the opportunity to reply to the above consultation and its response is attached herewith.

The Forum's members are presently unclear as to the balance of costs and benefits to their businesses and to customers which could be expected to arise from implementing this proposal. Nevertheless they are ready and willing to enter into constructive debate to clarify these and the many other substantive points raised by the consultation document.

To assist its members share information and understand the impact of the changes required to achieve disposal the Gas Forum has created a special workgroup which will closely monitor the progress of this project.

I trust you will find these comments helpful but if you have any queries regarding this response please do not hesitate to contact me.

Yours sincerely,

Angela Love,  
Chairman.



## **The Gas Forum Response to Ofgem Consultation**

### **National Grid Transco – Potential sale of network distribution businesses July 2003**

#### **1 Summary**

The Gas Forum is essentially concerned to ensure that the standards of service, costs and value enjoyed by its members are not adversely affected either by any process put in place to achieve a sale of Transco assets or by the eventual outcome of such a sale. The Forum strongly believes that the interests of Transco's customers – shippers, and thereby suppliers and their customers - **must** be kept at the heart of the debate.

The Gas Forum anticipates that its members will make their own views known directly to Ofgem and to Transco. The Gas Forum believes that it can best contribute to the discussion by forming a working group to closely monitor developments in this area and ensure that its members remain fully informed and retain a collective voice where appropriate. For this reason the Forum's response avoids the detailed issues outlined in the consultation document of how a disposal could be achieved and concentrates upon the higher level questions of whether or not it should be undertaken and what benefits might accrue to the wider industry.

The Preliminary Regulatory Impact Assessment (RIA) as published in the document does not appear to be based upon information gathered from industry participants. The Forum strongly supports the recommendation that Ofgem should undertake an open consultation upon and searching analysis of the likely costs and benefits of disposal from which possible elements of "double counting" are excluded. The Gas Forum is willing to support such a process in a practical sense if requested.

The RIA process itself should be included within the scope of this consultation to ensure that the industry can have input to and greater confidence in the approach adopted. The Gas Forum further urges that this consultation process be undertaken **prior** to Ofgem making any recommendation to the Authority in November.

The Forum is anxious that the Authority's decision in November should not be taken as authority to proceed with disposal, rather it should be a decision to embark upon the more detailed work necessary to resolve the many complex issues touched on in the consultation document. It would seem appropriate that the Authority only gives its assent to any proposed sale once Transco can clearly demonstrate that it has met all

of the gateway requirements and satisfied all stakeholders that the outcome of any disposal represents a positive value proposition.

On the basis of information presented to date Forum members are yet to be convinced that the case for benefits arising to the industry has been established, and consequently reserves support for Transco's aspirations. There are presently too many questions regarding costs and increased risks from regulatory, financial and operational complexity.

Whilst needing to be convinced that real benefits will result from any disposal the Gas Forum is essentially neutral to ownership of the assets. Forum members are nevertheless ready and willing to enter constructive debate on the issues and will keenly monitor developments in the coming months.

## **2 Specific Points**

### **2.1 Regulatory Impact Assessment**

The Regulatory Impact Assessment (RIA) is the key to establishing the cost/benefit to the industry and should therefore be conducted in as open, transparent and inclusive a manner as possible. The Forum believes that as this project is of such complexity and importance the RIA process itself should be open to scrutiny and that consideration should be given to frequent iterations of the analysis (and to the possibility of updating the process) at critical stages of the project.

The Preliminary RIA does not go far enough to provide the sole basis for decision making on such a complex change for the industry. The Forum recommends that Ofgem should undertake an open consultation on the RIA process and gather input on estimated costs and benefits from industry participants as this must be the most appropriate foundation for decision making.

A further challenge to the RIA process is the difficulty in establishing the scope of the project. In other words what should the baseline be against which to assess the benefits of the change? The "do nothing" case should exclude benefits claimed from developments which are not in themselves dependant upon or arise directly from disposal. There are several elements in this category, for example - separate price controls, reform of the exit capacity regime, improvements in the supply point administration service and changes in the governance arrangements. In each case a change of ownership is not necessary to secure any benefits but may simply act as a trigger to bring forward the work.

Also, the consultation document contains different options for the overarching regime post disposal. For example there are options for licence changes, for balancing the system and for network codes. This linked with the uncertainty regarding which Distribution Network or Networks may be sold makes it very difficult to establish a single RIA as each combination will potentially carry different levels of cost, risks and benefits.

A further dimension to be acknowledged within the RIA process is the tension between Transco's aspiration to achieve rapid disposal which will require simple and possibly sub-optimal solutions, and the desire to realise as much of the theoretical benefits as possible. The latter desire will tend towards delivering more complex and

costly solutions and past experience suggests that even simple solutions tend to evolve more complexity relatively quickly after implementation.

The Gas Forum believes that Ofgem should undertake further work in the immediate future involving Forum members and customer groups in order to provide robust advice to the Authority in November, and assuming the project proceeds, during the life of the project.

## **2.2 Regulatory Architecture**

The Gas Forum does not wish at this stage to make any detailed response concerning this architecture, however, in general it would wish to see it develop in such a way as to facilitate;

- Appropriate and light touch regulation,
- Further development of competition (inc. in the potential delivery of the Agency services)
- An open, uncomplicated governance regime consistent with Ofgem's published principles of governance,
- Non-discrimination by Transco as between each of the DNs regardless of ownership,
- Development of appropriate commercial and operational services by the DNs.

## **2.3 Agency Concept**

The Agency concept should not necessarily be viewed as the only option for minimising disruption in the provision of, primarily, computer system based services to DNs and/or shippers/suppliers. Gas Forum members are unclear what other options might have been considered in this area. Equally, there is presently no persuasive argument as to the benefits of having this function outside the Transco regulatory ring fence, neither is it clear how competition in provision might develop or what incentives could be put in place to improve services in such a model.

## **2.4 Timing**

The Forum has doubts concerning the possible timetable included in the consultation document. It believes that the timetable should be dependant upon resolution of the complex and detailed issues outlined in the consultation document rather than aimed at achieving a fixed target date. It has been widely acknowledged that achieving a sale by September 2004 is an extremely ambitious target and it is unclear to the Forum why this date has been chosen or what the consequences of a delay might be.

The Gas Forum would encourage Transco to work in consultation with the industry to draw up a more detailed programme plan with realistic timescales which can be supported by all participants. In doing so it must be acknowledged that the industry is already engaged in a programme of work that will either have to be foregone or delayed and that there is inevitably an opportunity cost arising from this.

Equally, Ofgems' Three Year Strategy does not anticipate this additional programme of work in the next 12 months and an assessment of what level of resource it is prepared to devote to this work and what work it will put aside should be undertaken and taken into account in the RIA.

The Forum believes that Transco should develop a sensible and practical work plan with which it can refine following comments from the industry based upon available resources from its members and others. Gas Forum members are ready to participate in open and positive engagement with Transco to establish a robust programme of work to deliver the benefits of disposal over appropriate timescales.

## **2.5 Competition**

The Gas Forum is concerned to ensure that any disposal does not act to introduce complexity or divergence in systems or processes that would increase its members costs and/or act as a barrier to competition.

## **2.6 Governance**

If disposal is to go ahead then the Gas Forum would support a thorough holistic review of gas governance arrangements and would anticipate that application of Ofgems Principles of Governance would result in greater meaningful participation by its members.

## **2.7 Delivery**

It may be that the RIA presented to the Authority in November indicates net benefits from this project. However, it is unclear to the Gas Forum what approach the Authority will take should the detailed work scheduled for the beginning of next year reveal instead that there is a (significant) net cost. Members have concerns that early commitment to the sale could be made on the basis of expected benefits without any guarantee that these will be delivered to consumers.

**NB** - Please note that this response does not fully reflect the views currently held by SSE.