

DN sales: Regulatory Architecture Work Group

Meeting 1 – Notes

27 January 2004

Attendees:

Mike Ashworth	NGT	Lisa Waters	Waters Wye Associates
Alan Raper	NGT	Bob Bruce	Glenton Bruce Ltd
Sue Higgins	NGT	Paul Hughes	SSE
Paul Whittaker	NGT	Victoria Hunter	SSE
Nigel Sisman	NGT	Roger Barnard	EdF
Mark Sutton	NGT	Alison Kuck	Centrica
Mark Feather	Ofgem	Rodney Brook	Sohn Associates
David Ashbourne	Ofgem	Steve Rose	RWE Innogy
Jon Dixon	Ofgem	Russell Ward	Inexus Group (holdings) Ltd
Farook Khan	Ofgem	James Martin	AWG
Fergus Collins	Ofgem	Anne Clayton	Slaughter & May
John Holden	Burges Salmon	Sebastian Eyre	energywatch
Jonathan Jones	Burges Salmon	Peter Bolitho	Powergen
John Smith	Burges Salmon	Neil Shaw	GTC

Welcome

David Ashbourne welcomed to the attendees to the inaugural meeting of the Regulatory Architecture Working Group (RAWG). David gave a brief background on the progress to date, including the publication of a consultation document in July 2003 and Next Steps document in December 2003. The Next Steps document established various working groups to develop proposals to support the potential sale of a DN. The RAWG, as with the other work groups, is intended to allow Ofgem to seek views and assistance in understanding the potential structure of the industry in order to make a recommendation to the April meeting of the Gas & Electricity Markets Authority whether it is worth proceeding to work the proposals up in more detail or not.

Following a member's concern that all meetings may be for a full day, David suggested that once the group is underway they may be shorter, but this would be dictated largely by the amount of work identified.

(NB. The Next Steps document did emphasise the likely time commitment that would be required from nominees to the groups).

Other matters:

- The RAWG will not be a decision making body, and as such will not be voting on recommendations etc.
- RAWG will not have a budget, though Burges Salmon are being retained by Ofgem and may be called upon (via Ofgem) as appropriate.
- Minutes of all work group meetings will be made available on the Ofgem web-site.
- It was requested that members' contact details be made available.

Action: Check that members happy for their contact details to be made available. If positive response, publish on web-site.

Terms of Reference

Whilst members were happy with the objective of the group, they had some concerns as to whether the group was to be pro-active in the work it carried out or merely reacting to the proposals developed by their workgroups. David confirmed it would be a mixture, dealing with any regulatory issues over the potential sale, wherever they were identified.

There was some discussion on whether the terms of reference should refer to work that is 'necessary and expedient' to facilitate a DN sale, being mindful of the timeframe and in order to avoid over-engineering solutions. Roger Barnard expressed his unease at this suggestion as the test must be whether a DN sale has a net consumer benefit, and this should not be diluted by expediency. It was agreed that further thought should be given as to whether paragraph 1 needed to be expanded, to ensure that only appropriate proposals should be considered.

It was also agreed that the second term of reference should be amended to read:

“Identify and consider and other legal **or policy** issues relevant to the group’s objective.”

David Ashbourne pointed out that the Terms of Reference for each of the work groups had also already been considered in detail at the DISG.

Issues Log

A refined version of the Issues Log (to be attached) was circulated, showing only those issues thought to be relevant to the RAWG. Members were asked to review the log to check they were content that the questions were appropriately framed, and where referred to RAWG, that it was indeed a RAWG issue.

It was confirmed that this RAWG issues log would be actively maintained as a sub-set of the main Issues Log. It was suggested that clearer version control be used.

Action: Ofgem to date and/or version number Issues Log and other documentation.

Where comments were provided, they are captured below:

Issue 11: An action has already been placed upon NGT to meet iGT representatives to get together and go over the proposals. This meeting is planned for 30/01/04 and a report will be presented to the 3rd meeting of the DISG.

Issue 14: Bob Bruce questioned whether the provisions of the Off-take Agreement / Code and UNC had already been decided. It was confirmed that they hadn't been decided and were up for debate. Peter Bolitho commented that the existing contractual relationships should be maintained. Mike Ashworth agreed, stating that it was important that lessons be learned from BSC/CUSC and unnecessary fragmentation be avoided. David Ashbourne asked the group whether the issue needed to be redefined. The group agreed that the drafting was appropriate. This issue will also be discussed at the EBWG of 28/01/04 and on an ongoing basis thereafter.

- Issue 26:* It was noted that this would fall under the UNC, as currently dealt with under Network Code. Peter Bolitho felt the current arrangements were adequate and that this may not in fact be an issue. Mark Feather suggested that if the proposed charging arrangements between the NTS and DN's for diurnal storage impacted upon title to gas, it would definitely be an issue for the RAWG. The issue remained unaltered.
- Issue 35:* Whilst the group agreed that the responsibility for investment must rest with the owner of the relevant assets, Peter Bolitho suggested there may be some conflict between the operators of the NTS and DN. The issue was not altered.
- Issue 56:* Fergus Collins informed the group that the possible framework for licensing is currently being explored further by Burges Salmon, which will report back to the RAWG. One member raised the issue of what (if any) consequential changes would be required to be made to other GT licences outside the project. It was agreed that this was a valid issue for consideration by the RAWG.
- Action:** Burges Salmon to present a paper on the licensing framework to a future meeting (to be decided) of the RAWG.
- Action:** NGT/Ofgem to circulate a consolidated version of the current NGT licence.
- Issue 59:* Peter Bolitho felt that the risks to shippers as well as GT's should be reflected. David Ashbourne commented that the issue related to the licence modifications being thwarted. All licence modifications will require a full Ofgem consultation during which Shippers would be able to appropriately express their views. The issue was not changed.
- Issue 61:* Members raised concerns at what some of the knock on impacts of a change to the off-take agreement may be, and emphasised the need for change to be appropriately co-ordinated with other arrangements. The group agreed that the issue was appropriately defined.
- Issue 62:* It was felt that this may duplicate Issue 55 which also related to charging methodologies.
- Action:** Ofgem to consider whether Issue 62 is superfluous.

DISG members had been invited to join the RAWG at 11.00 for the NGT presentations on the proposed UNC and Off-take Agreement. RAWG was joined by Kyran Hanks (Ofgem, DISG chair)

Uniform Network Code

Alan Raper presented slides setting out NGT's current thoughts on the potential structure of the Uniform Network Code (UNC) (to be attached).

- Action:** Ofgem to obtain slides from NGT and publish on DN sales section of Ofgem web-site.

The following summarises the questions raised from the floor, which were generally fielded by Alan Raper. Not all sections of the proposed UNC drew comment.

General

- Q: If a DN wanted to move away from the UNC, would any new provisions be appended to the UNC or be entirely separate?
- A: As any change would be required to better the Relevant Objectives of the Network Code (set out in GT licence) it is likely that any change a DN wanted to make would be equally appropriate to the UNC, so conformity will be maintained.
- Q: Will there be any safeguards against inappropriate changes being made to the DN Codes?
- A: As above; a change will have to better facilitate the Relevant Objectives and will require Ofgem's approval.
- Q: Is it correct that resource use at NGT does not always match the geographic definition of the LDZ?
- A: This is sometimes the case, but is currently being dealt with internally by NGT.
- Q: The slides suggest that invoicing will not be split, but TRE charges will. Could this be clarified?
- A: There will still be one invoice, and the basic charge types will be retained, but the invoice will dis-aggregate the charges, identifying which DN each relates to.
- Q: Will iGT's have to change their billing arrangements?
- A: No, the UNC proposal applies only to DN's.
- Q: Does this all pre-suppose that the DN's charging methodologies will be the same as NGT's?
- A: Initially yes, though this may change over time.
- Q: Some of the drafting is ambiguous as it refers to 'gas transporters', which could apply equally to iGT's, is this intentional?
- A: No, future drafting will hopefully be clearer.
- Q: Is it presumptuous that all new DNs will be party to the UNC (or want to be)?
- A: Perhaps, but we have to start somewhere and this is a pragmatic model and realistic assumption.
- Q: Is it assumed that there will be an instantaneous rather than phased cut over from current Code(s) to the UNC?

A: Yes.

Q: What is the change control process for the UNC discussion document?

A: Transco will maintain it in line with developments in the work groups.

Q: How would reconciliations be dealt with post-sale (of which the relevant period may pre-date the sale)?

A: The proposal is that there will be a clean break – any reconciliation issues will be dealt with by the relevant DN.

Section B

Q: How will LDZ capacity be calculated?

A: The same way as currently on day one of new ownership, but it would be up to the DN if they wish to develop an alternative methodology, perhaps covered in their own network Code.

Section D

Q: If energy is being separated out, will NGT continue to do system balancing, whether in a system constraint or supply constraint situation?

A: Balancing will continue to be dealt with by the NTS. The model assumes a passive DN role. This is picked up further under interruptions, and may be influenced by discussions in the EBWG. Document currently reflects what are the necessary changes to the existing regime to facilitate a sale.

Section G

Q: What changes will be required to the Supplier of Last Resort (SoLR) provisions?

A: They currently envisage an across the board termination, but with multiple Network Codes it may be possible for a shipper to be terminated from the Code of one DN, but continue to trade normally on the other networks. This will therefore require systems to facilitate a partial SoLR, dealing only with those supply points on the affected network.

Q: The provisions relate to the portfolio of the supplier, but the termination is of the shipper - should we also have a shipper of last resort procedure?

A: NGT believe the distinction to be largely a false one, given that most suppliers are also shippers. In any event, this is an existing issue, not caused or worsened by a potential sale, so not in scope of issues to be addressed here.

Section J

Q: What are the obligations here that would rest with DN's?

A: We'd see this covering things like the NeXA's.

Q: Does the change of status from interruptible to firm supply point need the approval of both NTS and the DN?

A: Yes.

Section M

Q: There is an assumption here that RGMA will have gone live prior to a sale, is there a problem if it hasn't?

A: No, the obligations will be targeted upon the relevant meter owners regardless of RGMA.

Q: Where do the [DM] read obligations rest?

A: With the DN.

Section N

Q: What happens to the existing shrinkage contract?

A: This will be maintained until its expiry, though separate accounts may be utilised for each DN.

Section V

Q: Do you envisage any changes to the Energy Balancing Credit Rules/Committee?

A: No.

Q: Should we seek to ensure that aggregate credit requirements are at the same levels as currently?

NB. Transco didn't express a particular view on this point. It was suggested by Peter Bolitho that we could learn some lessons here from BETTA. He is preparing a paper capturing credit and other issues and how they are dealt with under BETTA, to be presented to the next DISG.

Q: Could NGT acting unilaterally terminate a user from the UNC?

A: Yes, that is the assumption.

Action: All RAWG members to comment on the UNC discussion document by end of Friday 6th February. Comments to be sent to the RAWG chairman David Ashbourne (David.Ashbourne@Ofgem.gov.uk).

The Off-take Agreement

Mark Sutton gave a presentation on how NGT envisage the Off-take Agreement (or Code) operating between the NTS and the various DN's (both sold and retained). The following summarises the questions raised by members during Mark's presentation:

- Q: Are all gas flows between networks metered?
- A: From the NTS yes, though there may be some flows between existing LDZ's which are currently unmetered. Generally these are only utilised in exceptional circumstances.
- Q: The Off-take Agreement makes an assumption that any future land requirements will be for NTS purposes – is that a certainty?
- A: That is Transco's understanding based on experience.
- Q: Is the proposed System operation managed Service Agreement (SOMSA) entirely separate to the Off-take Agreement?
- A: Yes, this is a separate agreement covering what will in effect be an outsourced service. It is anticipated that it will have a sunset provision, allowing it to expire without any other changes to the Off-take Agreement or Codes. However, the continued provision of the services otherwise covered by the SOMSA will likely be a requirement of the relevant safety case.
- Q: What do Transco intend to do with respect to telemetry on retained networks?
- A: Operate as currently.
- Q: What will the governance arrangements be for any changes to the CV/shrinkage calculation methodology?
- A: Anticipated to be initially done as currently, though DN's may chose to adopt an alternative method. This will be determined to a large extent by regulations [such as the gas (Calculation of Thermal Energy) regulations 1996] but there is also a potential for DN's to be bound to a common methodology under the UNC.
- Q: Do all of the off-take parameters mentioned in the agreement already exist?
- A: For the most part yes, though NGT currently focus on maximum Daily Quantity, not so much on what would be the 'secondary rights'.
- Q: Are NGT planning to introduce charges for diurnal storage, with different rates for different demand conditions?
- A: Yes, this is being anticipated but there are no detailed plans as yet.
- Q: Do the off-take parameters change every year?
- A: Yes, in line with the planning process set out in the Off-take Agreement.
- Q: Will the revenue from diurnal storage be part of NGT's allowed transportation revenue?
- A: Yes, it is revenue obtained from operation of the pipeline.
- Q: Will diurnal storage facilities be made available to all DN's on an equitable basis?

- A: No, this is a bi-product of NTS investment and will be subject to geographical constraints. It will be available to the DN which happens to be situated near the available storage.
- Q: Unless the charging of diurnal storage is established up-front, how will NGT be able to demonstrate it is not being discriminatory? For instance, investment in a particular area of the NTS could favour a particular DN, retained by NGT.
- A: The charging principles for diurnal storage should apply equally, regardless of whether the DN is sold or retained
- Q: What happens if NGT (NTS) make a commitment which it later cannot meet?
- A: This will be treated as a supply constraint – liabilities under the off-take Agreement will be applicable, as appropriate.
- Q: What about use of DN line-pack by the NTS – will this be under an equivalent charging regime?
- A: This is not something that is planned for – very much an exception, and the agreement has some flexibility as to how that will be dealt with.
- Q: What is meant by the reference to ‘rationing’?
- A: If off-take requests outstrip what is available, NGT will look to ration out the available capacity based on previous usage, rather than simply react to economic drivers.
- Q: Why is the diurnal storage charging not being introduced now?
- A: Absence of funds, as the current [LDZ] price controls don’t allow for it. Also, this is early in its development – unlikely that a robust regime could be implemented in readiness for a DN sale [according to planned timetable].
- NB. Kyran hanks indicated that if this was considered a showstopper, Ofgem could consider adjusting the prevailing price control to facilitate it.
- Q: What does the ‘prevailing flow rate’ mean?
- A: This is whatever is nominated by the DN (both primary and secondary rights) – if the DN breaches this, it will primarily be a matter of licence and/or safety case enforcement rather than triggering any contractual financial liabilities.
- Q: If the NTS can’t meet its obligations, would it [NGT] trigger interruptions?
- A: NGT expect DNs to do all they can to assist the NTS.
- Q: What are the financial implications of gas flows between DNs?

A: The agreement doesn't currently go into that level of detail, as the NTS, NGT is only concerned with the quantities of gas being moved between DNs, not the financial arrangements behind that movement.

Q: Is it envisaged that the document will be designated?

A: That hasn't yet been considered.

Comments were also invited on the Off-take Agreement by Friday 06 February. Members felt this was unrealistic given that they were already being asked to consider and comment on the UNC. It was determined that work on the UNC should take priority, and that guidance should be sought from the DISG on the relative timing for work undertaken.

A.O.B.

The next meeting of the RAWG is scheduled for the afternoon of 10 February, (following the DISG), at: Regus Offices, 12 St James Square, London SW1.