

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

9<sup>th</sup> July 2004

Dear Sonia

**Re. Offtake Arrangements – Regulatory Impact Assessment**

Total Gas & Power Limited (TG&P) welcome the opportunity to comment on this regulatory impact assessment. We agree that suitable offtake arrangements will need to exist between the NTS and all DN network owners to ensure that efficient system planning, operation and investment occurs at the interface and within each of the respective networks. TG&P consider the most effective means to deliver these objectives are through the implementation of behavioural conditions imposed by licence conditions and through the retention of 1 in 20 obligations for both the NTS and all DNs. We note that licence conditions are proven regulatory instruments and have served well not only in the gas but other regulated utility industries. In addition TG&P consider that structural and legal separation of the NTS and RDNs will also address many of the concerns regarding discrimination between the NTS and IDNs, avoids the possibility of transfer pricing issues and thus should facilitate comparative regulation.

Retention of the 1 in 20 planning obligations upon both the NTS and DNs is critical, we believe, to the delivery of efficient network investment and security of supply. This obligation facilitates a co-ordinated and planned investment approach between the NTS and DNs. One would reasonably expect the DNO to be in a better position to anticipate required investment than shippers since it is more readily able to factor into its planning considerations issues such as regional economic growth and demand for gas and the implications of planning applications/consents from/to developers of local amenities or infrastructure.

TG&P note that options 3 & 4 propose that shippers indicate their capacity requirements three to five years in advance. TG&P and many of its customers have serious reservations regarding the practicalities of these options. Given the competitive nature of the gas market and the ability of customers to move relatively quickly between shipper portfolios we do not believe it is feasible for shippers to accurately notify the DNO of capacity requirements in the time frames proposed or reasonable to expect them to either consider or even be in a position to consider some of the network planning factors referred to above. We recognise that Option 3 has the fallback of the DNO topping up shipper requests to meet 1 in 20 obligations, however, the charging mechanisms to smear these costs back to shippers are likely to require complex mechanisms to avoid cross-subsidies and other adverse distributional consequences.

Hence, TG&P and many of its customers do not believe that the mechanisms proposed under options 3 and 4 will lead to efficient network investment and remain concerned that security of supply may ultimately be jeopardised. We are not swayed



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by the suggestions that reduced regulatory oversight is more likely with these options since they are likely in themselves to require substantial regulatory involvement to develop, agree and monitor compliance with the associated incentive schemes.

The cost benefit analysis suggesting that option 4 will ultimately deliver the most benefits in the long terms is we believe simply wrong. The suggestion that under options 3 and 4 that only a 0.25 FTE will be able to deal with capacity forecasting, capacity booking, secondary capacity trading, invoice checking, invoice payment and other consequential system changes is more than optimistic. Our conservative estimate suggests that at least 1.0 FTE would be required and this would suggest that the long term preference for option 4 clearly needs to be reconsidered. We further note that the costs and benefits for each of the options have been considered in the context of an unconstrained allocation. TG&P would expect substantial revisions to the analysis if the options were to be considered in a constrained allocation context and consider this would also merit a further regulatory impact assessment consultation.

TG&P therefore conclude that option 2 combined with full legal and structural separation is likely to deliver the most benefits in the long term and recommend its implementation. We note that full legal and structural separation combined with licence requirements for the NTS not to discriminate between IDNs and RDNs should also prove beneficial in relation to diurnal storage and operational flows.

We continue to believe that if NGT are given consent to proceed with the sale of one or more of its DNs, that the arrangements adopted in the post-sale environment should be the minimum necessary to give meaningful effect to the sale. TG&P therefore support the administered approach and do not consider the additional complexity introduced by option b is necessary or key to facilitating the delivery of a DN-Sale.

Please contact the undersigned if you wish to discuss any issues raised in this representation.

Yours sincerely,

*(This message is sent electronically and is therefore not signed.)*

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