

Development and Implementation Steering Group Minutes

Meeting 17

24 August 2004, 10:00 am – 2:00 pm

Ofgem's office, 9 Millbank

Attendees

Christiane Skyes	E.ON UK	Jess Hunt	Ofgem
Duncan Jack	Elxon	Matteo Guarnerio	Ofgem
Richard Street	Statoil	Elisabeth Hillman	Ofgem
Tanya Morrison	Shell Gas Direct	Jason Mann	PA Consulting
Tory Hunter	SSE	Tim Dewhurst	PA Consulting
Stephen Parker	United Utilities	Sue Higgins	NGT
Michael Young	British Gas Trading	Mark Sutton	NGT
Paul Mott	EDF Energy	Nigel Sisman	NGT
Sam Parmar	Statoil	Graham Barnett	NGT
Sonia Brown	Ofgem (chair)	Mike Ashworth	NGT
Sebastian Eyre	Energywatch		

1. Review of items from previous DISG meeting (held 17 August 2004)

a) Minutes

Tory Hunter asked for a change in the previous DISG meeting, indicating that in the comments on Ofgem paper on constitution of the governance entity, she had commented that she didn't want to endorse an approach which would prevent the parties from making an appeal.

Christiane Skyes asked whether, in reference to the proposed offtake arrangements that were presented in the previous DISG meeting, firm capacity would be offered on the day and if NGT would be obliged to offer interruptible capacity. Jason Mann replied that NGT will offer firm and interruptible capacity, but the details of how these arrangements will be implemented are still to be decided.

Richard Street asked for the following change "Richard Street detailed that he understood why DNs would like flexibility in the system but the way the NTS is configured means that the amount of linepack available will change within year".

Sue Higgins noted that, in commenting Transco's paper on handling emergencies, she had stated that the arrangement detailed in Transco's paper are only intended to address the provision of a first line service of emergency response to the NTS following the potential sale of one or more DNs.

Ofgem agreed all the proposed changes and minutes will be changed accordingly.

b) Actions

The actions arising at the previous meeting had been discharged as follows:

- ◆ *SPAWG to report back to the DISG when the actions have been completed. Not relevant to this meeting.*
- ◆ *Transco to speak to xoserve in relation to the issue of IGTs becoming involved in agency function and report back to DISG 17 regarding whether xoserve will be progressing this issue. NGT to report to DISG as per agenda item 8.*
- ◆ *Gas shippers were to present the proposals regarding credit arrangements to the gas forum for discussion and report back on any conclusions reached to the DISG. Steve Gordon, from Scottish Power, was to speak to members of the Gas Forum to discuss these issues. This action remains open, since Steve Gordon was not present at the meeting.*
- ◆ *DISG group to consider the proposals presented by Transco (on Transco's paper on ownership and governance of the agency) and to provide any relevant comments to Sue Higgins by Tuesday 23 August. Further discussion will take place at DISG 17 if any comments are raised. Sonia Brown noted that some shippers were concerned that the non-executive director would not have the ability to vote under Transco's proposal. Sonia said that some shippers felt that by having a non-executive director who understands customers' needs may enhance the board's processes. Sonia invited comments on these issues by the end the day (24 August).*
- ◆ *Transco to provide details of the costs incurred by DNs if they were to provide a first line emergency response. To be discussed at DISG 18 on 7 September.*
- ◆ *Transco to report back to DISG 17 in relation of IGTs and emergency services. To be discussed at DISG 18 on 7 September.*
- ◆ *The issues log to note that discussions regarding emergency handling procedures are to be taken forward through the Ofgem licence consultation document. Ongoing.*
- ◆ *Transco to prepare a presentation regarding the way in which the DN boundaries will work in a post – DN sales environment. Transco to present at DISG 18 on 7 September.*
- ◆ *Ofgem to keep a rolling update of meeting agendas to ensure that all attendees are aware of the issues to be discussed. Ongoing.*

Tanya Morrison raised the issue that decisions implemented through the workgroups may not take enough into consideration the views of shippers not present at the meetings. Sonia Brown replied that workgroups are complementary to the consultation process.

2. Discussion of views from the Gas Forum regarding credit arrangements.

Sonia Brown highlighted that Ofgem is doing separate work to consider in more detail Transco's proposals.

Action: Ofgem to report to DISG 19 on its views on Transco's proposal on credit arrangements.

Sonia said that it is particularly important to have small shippers' views, and noted that in the previous DISG meeting Steve Gordon had agreed to take responsibility for collecting shippers' opinions regarding the implications of credit arrangements.

Action (outstanding): Steve Gordon to report to DISG 18 (7 September) on these issues.

Mike Young said that he supports simpler arrangements but the views of some smaller shippers may differ.

3. Ofgem presentation on diurnal storage

Tim Dewhurst gave a presentation on diurnal storage. Tim outlined work to date on the definition of diurnal storage. He explained that diurnal storage is a form of "further flexibility" made available by the NTS, above the provision of primary NTS capacity, and that is defined by two parameters (incremental flow and volume of flexible offtake). Tim also described a number of key issues: the proposed allocation process, overruns and the relation of the proposed arrangements with physical constraints. He also solicited views from DISG attendees. Tim noted that the proposals outlined in the presentation had been developed jointly with Transco.

Mike Young noted that, under the proposed arrangements, offsetting flexibility profiles may result in having no overall impact on linepack. Tim stated that Ofgem had already noted this issue and that it will consider whether it is important.

Richard Street asked how the proposed arrangements interact with interruption arrangements – specifically, what would happen to diurnal storage rights in the event that an interruption was called? Tim Dewhurst stated that this interaction needs to be explored in more detail but that the issue was unlikely to cause a problem.

Tory Hunter asked if Transco will be buying back flexibility rights in case of capacity constraints. Tim Dewhurst confirmed that this is the intention of the proposal. The interaction of this proposal with NeXAs was also discussed, and Tim noted that the proposal needs to be developed further in order to analyse this aspect.

Sonia Brown stated that Ofgem would welcome views from all interested parties on these issues. She also noted that there will be another opportunity to discuss this issue at DISG 18 on 7 September.

Action: Comments on Ofgem presentation to be sent to Tim Dewhurst (tim.dewhurst@ofgem.gov.uk) by 31 August.

4. Ofgem presentation on rights of appeal under UNC governance arrangements

Jess Hunt gave a presentation on Ofgem's position on rights of appeal under UNC governance arrangements. She outlined the proposal developed through DISG, in which a simple majority rule applies to Modifications Panels decisions, the chair has a casting vote, except where the decision relates to a recommendation to be made to the Authority. If there is a split vote with respect to a recommendation, no recommendation is made. She also noted that under this proposal the right of appeal is forfeited in case of a split vote.

Tanya Morrison said that her conversations with DISG members suggested that this proposal was not agreed by DISG members. Sonia Brown replied that views on this proposal were sought at previous meetings, and there were no comments on this particular issue. Tanya also suggested that an approach where the right of appeal is forfeited in the event of a split panel vote was inconsistent with the Energy Act. Jess Hunt said that at DISG 16, Tory Hunter had expressed concern about the potential for rights of appeal to be forfeited, and that was why Ofgem was considering alternatives.

Jess described an alternative proposal, where the chair is approved by the Authority and is able to exercise casting vote in relation to decision on recommendations. Jess explained that this approach ensures that the right of appeal is not forfeited. She said that Ofgem is working with the Department of Trade and Industry (DTI) in order to progress on these issues, and that the DTI will commence a consultation on the Energy Act appeals mechanism shortly. Sonia Brown noted that the arrangements that will be consulted upon need to be robust to both a sale and a no sale scenario. Sonia said that Ofgem would welcome feedback from the group and Transco. Sue Higgins said that she would take this issue away since the NGT representative responsible for UNC was not present at the meeting.

Tanya Morrison asked whether there could be a voting mechanism developed to establish the chair of the Modification Panel. Sonia Brown replied that this could potentially give rise to concerns regarding the independence of the chair as it would give larger players more power in establishing the chair. She noted that previously the DTI has preferred arrangements where the chair appointed by a third party (Ofgem) in order to guarantee its independence. She said that under the proposed arrangements, Ofgem would not have an active role in appointing the chair, but could cancel the appointment of a chair that it believes to be unsuitable to that role. Sonia also said that the Modification panel representatives will still need to sign a declaration in which they state that they will consider each modification proposal on the basis of their performance against relevant objectives and not on the basis of their commercial interest. Sonia noted that Ofgem aims to find a way to facilitate the opportunities to appeal Authority decisions.

Tanya Morrison noted that no perfect solution will be available and there are always issues of impartiality, even if Ofgem appointed the chair. Sonia stated that arrangements similar to those in place in electricity could provide additional impartiality.

The group discussed the recruitment process by which an independent chair could be selected. Sonia Brown noted that some members the group appeared to favour an approach where there is greater industry involvement in the chairs' appointment process and that this process could potentially be codified. Christiane Sykes suggested that it may be more transparent to adopt an approach where the motives of panel members are clear. Sonia Brown suggested that there could be legal issues associated with this approach.

Action: DISG members to provide comments on Ofgem presentation on rights to appeal under UNC governance arrangements by 31 August. Transco to copy their views to DISG members.

5. Transco paper on constitution and structure of the GT joint office (JO)

Sue Higgins described the key features of Transco's paper on constitution and structure of the GT joint office. Sue outlined NGT's proposals on the structure and operation of the JO. In particular, NGT's paper sets out proposals for legal structure, staffing, accommodation, funding, structure and content of the Joint Office Agreement. The group discussed in particular about NGT's proposed staffing model. Sue Higgins clarified that subject matter experts and legal resource for legal drafting of the modification will be drawn from a list of relevant resources nominated by the community. Responsibility for fulfilling the JO function lies with GTs, however shippers may choose to contribute resources towards the JO's processes.

Duncan Jack asked whether subject matter experts would be conflicted out of performing duties on behalf of the GT when they were also contributing to JO processes. Sue Higgins said that the subject matter expert would not be permitted to represent the GT in relation to the particular issue dealt with in the modification proposal however the expert would be able to work for the GT on other issues. Sonia Brown said that a detailed code of conduct for subject matter experts and legal resources provided by GTs and shippers needs to be established.

Tanya Morrison noted that the main issue is to make sure that processes and priorities are fair. Stephen Parker noted that the likely number of modification proposals may influence the most effective approach to undertake. He explained that if the number of modification proposals is high, it may be more efficient to have a centralised approach for dealing with modifications. Sonia Brown replied that it could be argued that if the shipping community is more involved in the process, then they might take a more conservative approach and the number of modification proposals may be reduced. Tanya Morrison noted that a large number of modification proposals are proposed by Transco. Richard Street noted that different companies are specialised in different sectors, and different kinds of expertise should be taken into account when allocating resources.

Sonia agreed with Tanya's point that these reforms need to be combined with effective modification rules.

Richard Street questioned Sue Higgins about the administrative tasks of the JO associated with UNC modifications. In particular, he asked her to explain the proposed JO task of "Liason with Ofgem during decision process and expediting". Sue Higgins explained that the proposals are still "work in progress". Sonia said that the task regarded informing people dealing with the process within Ofgem and not policy people.

Sonia also noted that implementation dates would be decided by the panel and the panel would have to decide on any further change to the dates.

6. Transco presentation on UNC/offtake arrangements legal framework

Sonia Brown explained that Transco's presentation on UNC/offtake arrangements legal framework constitute a significant development from Transco's initial proposals.

Nigel Sisman gave a presentation on the composite framework of the UNC / Offtake code. He introduced the 'NTS connectee' (connectee) concept, which includes DN's and NTS direct connects. Nigel explained that an offtake code provides common contractual relationship between the NTS and all connectees. Questioned by Richard Street, Nigel explained that under the envisaged approach connectees would normally be booking NTS exit capacity, but they could have shippers as agents.

Tanya Morrison asked about possible issues with the Gas Act. Sonia stated that there might be some technical issues about the way in which different sections of the Gas Act interact. She also said that Ofgem is currently examining these issues.

Nigel then explained how connectees can book exit capacity under the Offtake Code. He also presented the payment obligations under option 2A and option 2B, stated the benefits of an offtake code and explained that the composite framework would imply separate UNC and offtake provisions, with common modification rules and governance, administered by the Joint Office. Nigel explained that the proposed framework would allow for future evolution of exit arrangements if necessary.

The group discussed credit arrangements. Nigel stated that additional credit arrangements need to be put into place to accommodate the connectee concept. He also noted that when setting these additional credit arrangements, an approach equivalent to arrangements at entry could be considered. Sonia Brown added that it is necessary to ensure that credit arrangements are not unduly discriminatory. Sonia also noted that there would be no change in the overall price control allowance, but the new arrangements would require some degree of redistribution.

The group then discussed what would happen to financial flow if an overrun was caused by non-daily metered (NDM) sites. Richard Street noted that if a NDM site causes an overrun, it would be difficult to identify it. Sonia Brown and Nigel Sisman noted that the proposed arrangements require that the DN in aggregate book sufficient capacity, therefore the responsibility of an overrun is on the DN. Nigel stated that in the future more detailed arrangement may be put in place, but this is not the proposal from day one of DN sales.

Tanya Morrison asked for more details about the modification process of the offtake code, and in particular whether shippers would be allowed to raise modification proposals to change the content of the offtake code. Nigel stated that the level of involvement of shippers is still being considered.

Sonia noted that shippers will be consulted on the UNC/offtake code legal arrangements.

Tory Hunter considered that there might be possible problems in the interaction between these arrangements and NExAs for existing connectees to the NTS. Mike Ashworth explained that NExAs explicitly do not confer property rights, rather they are an ancillary document to the Network Code. He suggested that going forward, connectees could potentially receive rights directly. Sonia Brown said that more work on a legal framework needs to be done. She noted that Ofgem's licence consultation, which is due to be published within the second week of September, leaves these issues open.

Sonia stated that Ofgem would welcome comments from shippers, customers and potential purchasers on these issues.

Action: DISG members to provide comments on UNC/offtake arrangements legal framework by 31 August. Ofgem to present position paper at DISG 18 (7 September).

7. Ofgem position paper on Asset Risk Management Surveys

Jason Mann presented Ofgem's position paper on Asset Risk Management Surveys. He explained that in the July 2003 consultation document on the potential DN sale, Ofgem stated that the DN sales process would need to consider whether to extend the scope of the survey to include smaller independent networks. Jason clarified that Ofgem considers that each of the DN businesses that are sold should be required to participate in future industry-wide iterations of the Asset Risk Management Survey. However, he explained that the sale of DNs should not trigger a targeted release of the Asset Risk Management Survey for completion by the DN being sold.

8. Transco status and resolution report on progress with IGT issues

At the previous DISG meeting, Transco had been asked to provide an update on their progress in resolving IGT issues.

The previous DISG had the had been some discussion of whether IGTs would use xoserve to fulfil their supply point administration functions. Sue Higgins clarified that IGTs cannot enter these arrangements immediately as they are not in a position to do so in the current framework. Sonia said that the inclusion of IGTs within the agency is not a DN sales issues. She added that these issues are unlikely to be addressed prior to the next price control.

Sue Higgins said that the issue of the provision of emergency services to IGTs needs to be considered further and that Transco was meeting with AIGT to discuss the matter later in the week. She explained that in Transco's view, part of the service is monopolistic, and part of the service is contestable. Sue noted that emergency calls for transmission in the past year cost at most £10,000, while the cost for transmission having its own capability would be around £55 million per year. She noted, however, that there are considerably more emergency calls received for IGTs. Tory Hunter suggested that emergency services could potentially be contracted out.

9. Incentive schemes

Jason Mann discussed Ofgem's preliminary position on duration of incentives. He explained that form, scope and duration of incentive schemes still need to be established. He stated that Ofgem's initial position is that incentives schemes should be probably set for one year of duration initially.

Some members of the group requested further information on the types of incentive schemes that could be introduced. It was noted that in a number of cases costs have previously been internal to Transco and consequently it is difficult to identify appropriate parameters. Sonia Brown stated that Ofgem will consult on form, scope and duration of potential incentive schemes at a later date.

Tanya Morrison asked about other incentives (such as electricity quality of service) applicable to DN sales. Sonia replied that standards of service will be discussed at the next meeting

Sonia reiterated that the benefits of reviewing the incentives after one year are likely to outweigh the regulatory costs involved. Questioned by Stephen Parker, Sonia stated that it is likely that the proposed incentives will have a cap/collar structure.

Other issues

Sonia Brown stated that comments on any outstanding issues from CIWG should be sent to Ofgem, otherwise the issues will be closed. Jess Hunt also requested that members provide comments on Ofgem's DN-DN separation paper by 27 August.

Action: Comments on paper on DN-DN business separation discussed at DISG 16, to be sent to Ofgem by the end of this week.

Action: Comments on outstanding CIWG issues to be sent to Ofgem by 31 August.