

Development and Implementation Steering Group Minutes

Meeting 18

7 September, 10:00 am – 2:00 pm

Ofgem's office, 9 Millbank

Attendees

Julian Bagwell	Macquarie	Martin Kinouly	United Utilities
Duncan Jack	Elxon	Mike Young	British Gas Trading
Charles Ruffell	RWE npower	Neil Shaw	AIGT
Beverley Grubb	SSE	Stuart Hunter	British Gas Connections
John Costa	EDF Energy	Alan Raper	NGT
Phil Scott	HSE	Mark Sutton	NGT
Jim Stancliffe	HSE	Nigel Sisman	NGT
Steve Gordon	Scottish Power	Peter Massey	NGT
Nick Wye	WWA	Peter Bingham	NGT
Richard Street	Statoil UK	Jason Mann	PA Consulting
Peter Bolitho	E.ON UK	Sonia Brown	Ofgem (chair)
Jess Hunt	Ofgem	Matteo Guarnerio	Ofgem

Sonia Brown asked Transco to provide an update following Transco's press release regarding the potential sale. Peter Bingham explained that Transco had reached agreement with three potential buyers and the process is now moving forward in terms of obtaining regulatory approval. Sonia Brown noted that the Authority's position is unchanged and noted that the sale is conditional to the approval of the Authority.

Sonia welcomed the presence of representatives of prospective buyers.

1. Review of items from previous DISG meeting (held 24 August 2004)

a) Minutes

Peter Bolitho referred to the minutes from the previous DISG and suggested that it would be useful to include the IGTs within the agency, especially in the context of the benefits case in Ofgem's final RIA. Sonia noted the comment, and stated that, when saying that the inclusion of IGTs within the agency is not a DN sales issue, she was repeating Transco's conclusions. Jessica Hunt noted that this position does not imply that, going forwards, the IGTs will be excluded from the scope of the agency.

b) Actions

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

- *Steve Gordon to report to DISG 18 on the views of the Gas Forum regarding credit arrangements.* Item 2 on the agenda. Mike Young said he was aware that emails

had been circulated on this but he was not sure that a consensus would emerge from the gas forum. Sonia said that it would be useful to know these shippers' views.

- *Ofgem to report to DISG 19 on its views on Transco's proposals on credit arrangements.* Not relevant to this meeting.
- *Comments on Ofgem presentation on diurnal storage to be sent to Tim Dewhurst by 31 August.* Jessica Hunt noted that Ofgem received some comments from DISG participants on this issue.
- *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.* Peter Bingham said that Transco's view on this issue is that in the case of a split vote, no recommendation should be put forward and Ofgem should act as arbiter. He noted that the DTI will consult on this issue in September and for the purposes on the UNC development process Transco will continue with the proposal of no recommendation in the event of a split vote. Peter Bolitho noted that in the electricity panel there is an independent chair who votes for the status quo in the case of a split vote. Sonia Brown noted that this is part of Ofgem's proposals. Peter said that if the right of appeal would be forfeited, then the industry would be forced to make a decision, but an independent chair might be useful. Sonia noted that an independent chair might also be useful in other areas, such as resolving disputes about the decision timetable. Duncan Jack stated that there are differences between the electricity panel and the proposed gas panel.
- *DISG members to provide comments on Transco's presentation on UNC/offtake arrangements legal framework by 31 August.* Ofgem received some comments on this issue.
- *Comments on paper on DN –DN business separation discussed at DISG 16, to be sent to Ofgem by 27 August.* No comments were received on this issue. Sonia Brown noted that Ofgem maintains its position on this issue; however it will have to be ratified by the Authority in November in the context of the decision on whether to grant consent to the sale of DNs.
- *Comments on outstanding CIWG issues to be sent to Ofgem by 31 August.* Ofgem received some comments, which were tabled at the meeting.

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

Sonia Brown invited DISG members to express their views on NGT proposals. Alan Raper explained to the group Transco's position on this issue. He noted that the UNC would be drafted so that a default would not cascade across the whole network and he said that containment rules would be included. Sonia noted that some IDNs may want different credit arrangements on their networks. Alan Raper reminded the group that these issues were scheduled to be discussed at the UNC development workgroup on 10 September. Alan also stated that the separation between NTS and DNs would determine whether the default cascades to the NTS. Sonia replied that Ofgem is minded to have legal separation between NTS and RDNs. The group then discussed the separation between NGT business in the NTS and in the RDNs in the context of credit arrangements and Alan Raper noted that under Transco's proposed approach, a default against the RDNs would lead a shipper to be prevented from operating on the four RDNs but not on the NTS. Steve Gordon stated that no single uniform view on credit arrangements emerged from the Gas Forum. He noted that the main concern of participants who were against Transco's proposal was about having DN discretion.

Alan Raper explained that the GTs, in case of default, should be able to take actions on a case by case basis, and termination should not be mandatory. Mike Young explained that having a consistent approach towards credit rules and costs across all networks is advantageous. Mike said that termination should only be considered when absolutely necessary. He also highlighted that the discussion was only about transportation credit and did not involve energy credit.

Peter Bolitho noted that in practice there would only be a slight delay in defaults against all networks. He also expressed his preference for the “one out all out” approach, but with arrangements such that troubled shippers do not reach that position too quickly. Alan Raper said that mandatory termination would not be suitable since there might be occasions in which it is better to continue transporting. He also noted that if the default is on IDNs then the IDNs have first access to any securities that may be in place. Mike Young noted that a potential higher risk and cost of credit might emerge for the IDNs, and this cost would also fall on shippers. Peter Bolitho noted that this would not create major problems for large players but may create some concerns for smaller players. Sonia Brown noted that the shipper proforma provided Ofgem with information on the expected credit costs, which need to be factored in the final RIA. Sonia explained to the group that Ofgem is currently considering the appropriate credit arrangements to apply in electricity as well as gas. She explained that Transco’s proposal will be discussed at the UNC Development forum on 10 September and that any conclusion developed through this process will be reviewed by Ofgem and may be discussed at future DISG meetings.

3. Ofgem presentation on licence arrangements

Jason Mann gave a presentation on licence arrangements, where he highlighted the main issues debated in Ofgem’s consultation document setting the initial thoughts on restructuring Transco’s GT licence published on 2 September. Jason gave an overview of the contents of the document and he explained that although the approach undertaken might seem complex, this is due to a lack of primary legislation in this area. He explained that the changes envisaged in the document do not affect IGTs licences. Jason described the proposed licence structure and the modification procedures required. He explained that the changes envisaged in the document are mainly required as a consequence of the integrated nature of Transco’s current business; therefore many current Standard Conditions are likely to become Amended Standard Conditions, and, as a result of this, the statutory Collective Licence Modification (CLM) process would cease to apply to these. He therefore noted that Ofgem is proposing a “private CLM” procedure to apply to “Standard Special Conditions”.

Sonia Brown said that the main problem is that Transco’s GT licence requires a large amount of modifications and this implies some degree of regulatory risk; therefore there is a need to maintain the ability to use a CLM procedure. She noted that in the absence of this there would be the risk of a reduced ability to regulate and of the emergence of divergent licences. Sonia explained that a condition similar to Standard Condition 2 needs to be created in order to be able to “switch off” parts of the licence; Transco will need to grant its consent to this modification and to the licence condition creating the private CLM process.

Sonia Brown sought views on the appropriate voting threshold. She said that Ofgem’s aim is to create a workable regulatory mechanism, which would be able to replicate the existing rights of appeal.

Charles Ruffell asked for a specific example of the modification procedures. Sonia explained that Amended Standard Condition 9 (which obliges the licensee to establish a Network Code calculated to facilitate the achievement of one of a number of specified code objectives) will need to be “switched off” and a Standard Special Condition will be introduced. On the other hand, Special Condition 28B is a truly special condition as it needs to apply to individual licensees.

Jason Mann explained some of the key issues related with the proposed licence changes. The group discussed emergency service co-ordination. Sonia Brown noted that the proposed conditions are additional to HSE obligations. Peter Massey said that he would cover these issues in more detail in his presentation (item 4 on the agenda). Phil Scott stated that HSE were not able to use the GSMR process to introduce certain elements of the proposed obligations and that it supported having licence obligations in regards of these parts.

Richard Street asked about the services that could potentially be provided on a commercial basis. Sonia Brown replied that Ofgem’s initial view is that a distinction may be made between the “make safe” aspect of the service, which may be considered a monopoly, and other aspects which are more contestable. Sonia invited views on this and on all other aspects of the proposed approach to modifying Transco’s GT licence.

The group agreed that each licence condition will be examined in more detail at the next DISG (14 September). Sonia invited all interested parties to attend next DISG, and asked whether new participants could inform Ofgem of their intention to attend (via email to tracey.hunt@ofgem.gov.uk). Sonia also said that Ofgem would have bilateral meetings with interested parties who wanted to offer views on the proposed licence modifications.

Action: DISG 19 (14 September) to discuss each licence condition. Ofgem to send DISG 19 agenda by 10 September. Discussion of each licence condition to be timetabled for the afternoon.

Action: Responses to Ofgem’s consultation document on proposed licence modification to be sent to Ofgem by close of business 29 September

Action: Transco to release their version of first draft of licence conditions within the last two weeks of consultation period

4. Transco presentation on Gas Safety Cases & Emergency Responses

Peter Massey gave a presentation on Gas Safety Cases and Emergency Response. Peter gave an outline of the legislative framework required. Neil Shaw noted that Transco’s safety case does not refer to IGTs. Peter Massey replied that each network has its own safety case and they are independent. He noted that IGTs will have to mirror Transco’s safety case if they refer to Transco in their safety case. He also said that, going forward, IGTs will need to coordinate with DNs only in cases where their safety case refers to a DN.

Peter provided additional details on safety case demonstrations required by the HSE. He noted that new criteria to reflect the new industry structure will be published by the HSE. Phil Scott noted that the package on human factors will include five different

criteria, among which are the number and competence of staff. Peter also clarified that Scottish and Southern may have one single safety case or two, depending on whether they choose to locate their two DNs in one legal entity or two legal entities.

Neil Shaw asked what would happen if there were any problems and IGTs failed to meet their deadlines. Phil Scott replied that the current IGT safety case is very limited and that the main change required would be the name of the emergency service provider. Sonia Brown asked whether HSE's consent to Transco would be contingent on IGT's safety case. Phil replied that this would not be the case, but that the IGTs would be in breach of their safety case if that could not demonstrate adequate arrangements for dealing with emergencies.

Peter Massey presented an indicative timetable for the safety case submissions. Sonia Brown noted that some of the licence changes would probably not be decided until January or February (within the Section 8AA process). Phil Scott said that the key point in the proposed timetable is the crossover date in April. Peter Massey noted that Transco is aiming to submit as much information as soon as possible in order to help the HSE. Richard Street asked what would happen if one of the IDNs was not able to prepare its safety case on time. Peter Massey replied that the sale would still go through, however there are strong commercial incentives for the IDN to complete its safety case on time.

Stuart Hunter raised the issue of the continuation of emergency services for IGTs, and Peter Massey replied that the extension of contract cannot be done unilaterally with all the IDNs. The IGTs will have to negotiate with each buyer. Sonia Brown noted that this is largely a commercial issue.

Action: Transco to explore the possibility of (1) extending existing IGT contracts for one year (to 2006) and (2) discussions between IGTs and potential buyers. Due DISG 21.

Neil Shaw suggested that the licence condition assigning to Transco the role of designated registrar of pipes may be "switched on". Sonia replied that the issue is being considered in the context of the informal licence conditions document.

Neil Shaw stated that the presumption of contestability of emergency services is debatable and he noted that this creates uncertainty for 0.5m customers. Sonia Brown said that there is no presumption: some initial thoughts were provided in the context of the initial consultation and views were sought.

Questioned by Julian Bagwell, Peter confirmed that metering jobs of the emergency service personnel were dispatched separately to the First Line Emergency Response service.

Peter noted that the proposed approach in case of a large supply emergency would be to respond to the emergency immediately, and only at a later stage would the allocation of the costs involved be considered. He noted that Transco's proposals are based on an agreement in effect in New Zealand which sets out the arrangements for sharing of staff in circumstances where support is needed from outside the network in question.

Peter Massey then described how the arrangements for emergency response will change in order to take into account the different ownership of the DNs. He explained how the DN boundaries will be dealt with and he described a number of areas where there will

be transitional operational agreements between the NTS and the DNs. He noted that all these agreements will disappear within 12-18 months after the sale of DNs.

5. Transco presentation on further flexibility

Mark Sutton gave a presentation on further flexibility on offtake (diurnal storage). After a brief description of the background and of previous discussions, Mark gave an outline of the proposed flexibility product. Beverley Grubb asked about the timescale and in particular to what extent the amounts of available flexibility will be predictable in future. Jason Mann said that the proposed approach would involve an unconstrained allocation in the long term and a constrained allocation in the short and medium term (e.g. 1-3 years). Beverley asked which amount of flexibility will be made available. Mark replied that Transco has already assessed how much flexibility Transco use at present.

Mark also explained a proposed approach for ramp rates and notice periods. He explained that currently NExAs do not have standard ramp rates. Peter Bolitho noted that the different ramp rates and notice periods specified in NExAs reflect local network conditions. Charles Ruffell suggested that a standard product should be provided as a component of the capacity product. Jason Mann noted that it is important for the arrangements to be non-discriminatory. Some participants said that they wanted to consider the proposed approach further before providing comments.

Peter Bolitho asked whether these arrangements could be considered as discriminatory, since a more rigorous approach is envisaged for offtake from the NTS. In particular he considered that they might be discriminatory depending on whether a connectee is connected to the NTS or the DN.

6. Transco presentation on Network Code development

Alan Raper explained that the Uniform Network Code development forum would meet on 8 September for the first time. The aim of the forum is to analyse in detail each section of the Network Code and to resolve the majority of issues arising, although for the most significant subject areas DISG would remain the initial discussion forum.

7. Any other business

Jess Hunt noted that there was an outstanding issue on Ofgem from CIWG, namely providing Ofgem's position on the application of the compensation cap for failure to provide gas of sufficient quality. She reminded the group that Transco proposes to maintain the 10% cap at entry.

The same cap would apply to gas flowed to the DNs. Jess noted that Ofgem currently believes that reconsideration of this issue is not appropriate within the context of DN sales. However, she noted that the Markets division of Ofgem will consider this issue within a wider review of gas quality.

Charles Ruffell asked whether the Ofgem's document on the scope of the agency had been released.

Action: Document on scope of agency to be sent to DISG members through the circulation list.

Mike Young asked whether Ofgem would keep a rolling update of DISG meetings agendas. Sonia said that this would be done as soon as possible.

Action (ongoing): Ofgem to keep a rolling update of meetings agenda to ensure that all attendees are aware of the issues to be discussed.

Mike also requested an industry forum to discuss in more detail the proposed exit and interruption arrangements. Sonia Brown replied that Ofgem currently does not have the resources to organise such a forum. However, Sonia said that Ofgem would be happy to participate if NGT were to organise the forum. Mike underlined that it would be very important for the industry to discuss and better understand the proposed arrangements.

Beverley Grubb asked for an update on the offtake code. Sonia replied that the issue has been considered within the licence consultation document. She stated that the issue will be on the DISG agenda in the next weeks.