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Dear Sonia,

**National Grid Transco – Potential sale of gas distribution network businesses
Licensing: Next Steps
Informal consultation under Section 8AA of the Gas Act 1986**

Thank you for the opportunity to comment on this informal consultation. BP's response is not confidential and may be placed in Ofgem's library and on its website.

Before commenting on specific issues, I would like to make some general comments;

General comments

With the current high level of regulatory workload, the imposed timetable for DN sales and finite resource, it is not practicable for BP to comment comprehensively on this document. We are therefore left with no alternative but to comment on a high level basis and focus on some specific issues.

The project plan to deliver DN sales lacks detail, and appears to be driven by arbitrary deadlines rather than the need to ensure robust solutions. There is a huge amount of relevant data to be considered in a short timescale and BP is concerned at the risk of errors and omissions that may result in remedial costs having to be borne by the industry and, ultimately, customers.

To date the management of the plan and the detail within has been very poor, not unlike the problems encountered during Metering Separation prior to the formation of the Project Team and the imposition of robust project management. Unrealistic targets are being set and the timelines are not being revised to reflect partial delivery of those deliverables, e.g. the release of the Business Rules and Legal Drafting fails to recognise that significant material areas are yet to be resolved. Therefore the plan does not reflect the potential reworking that would be required once these issues have been resolved.

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BP urges Ofgem to allow more time for proper consideration of the further developed proposals at the formal consultation stage to allow full assessment of any potential impact on shippers. We would point out that any additional costs borne by shippers and suppliers will have an impact on their competitiveness, and in the majority of cases be reflected in increased costs to consumers.

I now turn to some of the specific areas on which Ofgem has requested views;

Structure of the licences

BP is aware that there are industry concerns regarding the “private CLM” approach that Ofgem is proposing to apply in modifying licence conditions for DN sales. The Gas Forum has obtained a legal opinion which was presented to the DTI in November 2004, and we believe that a response from the DTI is still awaited. Consequently BP has no further comment to make at this stage.

Governance

- **Transportation charging arrangements** – it is proposed that NTS and DN-GTs should use reasonable endeavours only to change their charges twice a year, on 1 April and 1 October.

BP is supportive of the proposal for two fixed points for introducing revisions and believe that all relevant Transporters should work to this timeline to minimise complexity to users and consumers alike. We would, however, note that shipper costs would increase if fragmentation leads to more frequent and uncoordinated changes. BP proposes that a minimum notice period of 6 months should be introduced prior to any such changes as this would provide sufficient time for Shippers and Suppliers to properly analyse such proposals (which could involve several changes made by several Transporters simultaneously) and make efficient system changes. It would also ensure a level of stability for consumers. On this basis BP supports the proposal from NGT set out in 4.43 for the introduction of “dead bands”.

We also welcome Ofgem’s recognition that any deviation from a generic approach would need to be subject to a CBA which would consider the cost implications of such variation on Shippers and Suppliers.

- **Network Code & Offtake arrangements** – this condition provides for Short Form Codes and an overarching Uniform Network Code and sets out the modification process for each.

BP is supportive of the UNC-only approach with the modification process managed by the Joint Office, however we remain concerned over the approach to the development of both the UNC and SFNWC and to Governance arrangements. We note that the business rules and drafting released through the UNC process currently reflects a “lift and shift” of the existing arrangements and does not reflect the current thinking being presented to the UNC group as the work of the DISG. BP has also put forward proposals for the voting regime for the panel based on the approach currently taken in the SPAA and CRG groups.

System security

- **Emergency services co-ordination** – Ofgem propose that DNs be obliged to provide emergency services to the NTS and charge for this service at a reasonable rate. Ofgem also propose that there should be no change to current arrangements by which emergency services are provided to IGTs and that the current contract for provision of these services should continue as now. It is Ofgem’s view that any required changes to arrangements between IGTs and DNs are not connected to the

potential sale of DNs. BP welcomes Ofgem's commitment to undertake a full review of such services when the current commercial contract with Transco expires.

It is important to recognise that the initial notification will be to the Emergency Contact number 0800 111 999, currently operated by Transco, which will then be responsible for notifying the relevant work force to undertake the call out. As such, it would seem reasonable to require any DN workforce notified of an incident to respond and, where it was subsequently found not to be on their network, for that party to still undertake to make safe the incident. We would be concerned if, on attending site, the engineer did not make safe because they had identified that it was not on their network. This could impose additional delays in responding to an incident and have a detrimental impact on the overall safety regime.

It is also important to recognise differences between an IGT network which is generally constructed of newly installed, mainly PE, mains and services and DNs which consist of in-situ mains and services, as well as the scale of these DN networks in comparison to IGT networks, e.g. the difference between Wales and a newly developed housing estate.

- **Pipeline security standards** – Ofgem considers that a continuation of the current standard (the 1 in 20 obligation) is appropriate for all GT networks. In the absence of compelling evidence to suggest otherwise, it would seem logical to continue this standard.

Clarification of shipper/GT obligations

- **Price controls & incentive arrangements** - Ofgem proposes not to reopen Transco's price controls so that the overall amount of money recovered from customers by GTs will be the same over the remainder of the control period irrespective of whether the proposed sale of DNs proceeds. Whilst there may be arguments for revisiting the current price control, these should be weighed against the additional administration and uncertainty that this would create, and changes only made if they can be fully justified. Ofgem is also proposing that there should be an incentive scheme applying to DNs to encourage efficient investment decisions by network owners. These incentive arrangements will be supplemental to the price control arrangements and will be considered in detail in a separate consultation document. BP welcomes such a consultation and the provision of further detail, and urges that any incentive schemes should not be unduly complicated.
- **System operator managed service agreements (SOMSAs)** – if DN sales proceeds Transco would put in place a number of agreements between the new owners and itself for an interim period. Immediately following the sale Transco would provide independent DNs with system operation services. Since these are commercial agreements BP understands Ofgem's view that these should not be regulated, although consideration should be given to those areas where there is potential for adverse impacts on customers, such as safety and emergency response. We note that Ofgem expect these arrangements to fall away in 18 months, and that Ofgem suggest that if they don't they would consider regulating them. In such circumstances the suggestion put forward in 4.113, i.e. the introduction of a time limited obligation to provide services on a non-discriminatory basis, seems a reasonable compromise.
- **Standards of performance** – Ofgem proposes to place an obligation on all DN-GTs to continue surveying customers who have had interruptions to their gas supply. BP supports this proposal.
- **Connections** – Ofgem intends to place obligations on all GT licensees to ensure that current obligations that are placed on Transco with regards to standards of performance in relation to connections continue to apply. BP supports this and welcomes the extension of this obligation to protect all customers. We note that this obligation is not overly onerous and that any liabilities can be avoided by the provision of a reasonable service to customers. BP also welcomes the intention to implement these arrangements in March 2005 in advance of DN sales.

- **Business separation** – Ofgem has made proposals with respect to separation of a DN's business activities from any competitive activities it may have, and has also made proposals for arrangements to ensure that there is no undue discrimination between NTS and RDN businesses. BP notes NGT's suggestion that in practice the scope for undue discrimination from DN to DN is considerably less than between a competitive supply business and a DN (4.148), and has itself previously raised similar concerns over a party controlling a DN and also operating in Supply. BP acknowledges Ofgem's recognition of this concern in its proposals under 4.143 and supports arrangements to prevent undue discrimination.

Treatment of metering – provisions need to be retained for both NTS and DNs and this proposal reflects the current thinking on NTS unique sites where it is proposed that the metering is retained by the NTS and does not form part of the competitive metering market covered by RGMA.

Conclusion

BP's main concern with the DN sales project is the huge volume of documentation produced with insufficient time or resources for proper consideration of the detail. This presents a considerable risk to the robustness of any proposals developed. BP's comments are therefore high level and may not have identified potentially significant errors or omissions in these proposals.

We hope, however, that you find our comments helpful. Please do not hesitate to contact me if you would like to discuss any issues raised.

Yours sincerely,

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Regulatory Affairs