

Sonia Brown
Director, Transportation
Office of Gas and Electricity Markets
9 Millbank
London
SW1P 3GE
E-mail: tracey.hunt@ofgem.gov.uk

Dear Sonia,

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

Total Gas and Power Limited (TGP) appreciate the opportunity to comment on the above consultation. Our comments on the key issues for the Section 8AA consultation are detailed below and structured in the order that these views were requested.

Private CLM

TGP consider that this issue may significantly impact the indicative timelines to give effect to NGT's potential sale of its DNs. We understand the Gas Forum have, on the basis of received legal advice, questioned the legality of the proposed private CLM procedure and consider that it sets an undesirable precedent for the integrity of the licence modification procedures under Part 1 of the Gas Act.

We note that Ofgem continue to maintain confidence in the legality of the proposed route to introduce the private CLM procedure but have yet to disclose the legal basis upon which they have reached this view. Additional clarity from Ofgem in this respect would be useful and may help all parties to share Ofgem's confidence in the robustness of the proposed approach.

Transportation charging arrangements

TGP are concerned that divergence in charging methodologies and structures will lead to significantly increased costs. We anticipate the primary driver for increased costs, in this scenario, to be the system development costs required to introduce new charging parameters to enable quotes to potential customers and to bill/administer existing customers on different DNs. Unless sensible licence restrictions are imposed, that provide for effective management of changes to proposed charging methodologies and structures, we believe supply competition will be jeopardised.

Hence we support the inclusion of a licence condition upon all DNs that subjects them to management of charging methodology changes by the Joint Office (JO). For reasons of efficiency, we recognise it is sensible to allow variation in the proposed charging levels. The JO should however be invested with the authority to prevent changes in the charging structure proposed to Ofgem.

It is disappointing to observe the latest proposal has changed the reasonable



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endeavours obligations to limit the number of changes to charges from once a year to twice a year.

TGP recognise volatility in charging levels between annual charging years is to some extent unavoidable but instability and unpredictability within the charging year is a key issue for shippers, suppliers and customers and we believe remains an impediment to more effective supply competition.

We understand the decision to modify this proposal has arisen because of Transco's revenue recovery obligations and concerns but fail to understand why regulatory solutions adopted in the electricity market to overcome similar problems cannot be applied to the gas market.

TGP recommend that in this area we adopt best practise since the overall benefits to customers through supply competition should substantially outweigh the costs of implementing a scheme to ensure Transco is not penalised for delaying price changes to the following charging year.

Network code

With regards to governance, TGP consider that there should be a Uniform Network Code (UNC) since any other governance arrangement will probably increase fragmentation complexity for shippers and hence result in large costs to end-users. A UNC supported by strong regulatory checks to maintain uniformity is the only mechanism proposed to date in which TGP have any confidence.

TGP agree that in this respect the JO provides a useful supporting role to ensure these concerns do not materialise, however, this and earlier comments should not be interpreted as a resounding endorsement of the Joint Office proposals.

Significant questions regarding the interaction between the JO, Modification Panel and Modification Rules remain. We note the industry has recently devoted significant effort to reviewing the current Network Code (NC) governance arrangements to ensure increased transparency and efficiency for all parties and reduce the potential for any preferential or discriminatory arrangement for any individual party

TGP consider the creation of a separate governance entity would benefit from additional review that is concluded prior to hive-down and formation of the JO. Key elements to be reviewed should include a review of the modification rules to functionally separate administrative and development roles and a review of the proposed staffing model. We are yet to be convinced of the advantages of the proposal for subject matter experts (SMEs) or of the associated concerns that insufficient expert/legal resources may not be made available to the governance process. This has rarely been an issue under the current NC governance arrangements and we recommend that if Ofgem are subsequently concerned that the GTs are not efficiently discharging their obligations under Standard Licence Condition 9 (1) (b) that appropriate regulatory action is taken at that time.

Additionally, whilst funding of the JO will be provided by the GTs given the importance of the JO function to the industry we recommend this further review also include Shippers, Suppliers and Relevant Parties at every development stage.



Registered Office: 33 Cavendish Square, London W1G 0PW
Tel: 0870 5275 215, Fax : 0870 5275 213
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System security

TGP supports the continuation of 1 in 20 pipeline security standard obligations for all GT networks. We are deeply concerned however that Ofgem appears to be effectively revising the definition of the 1 in 20 obligation for the NTS, Standard Condition 16, to facilitate the introduction of radical changes to the exit arrangements. The current wording provides confidence to firm NTS direct connects that Transco will make capacity and flexibility available at flows up to 1/24 of MDQ. The wording of any new licence obligation must ensure that the current rights enjoyed by firm NTS direct connects are not diminished under an obligation which involves an unbundled exit capacity product.

Price controls

Subject to our earlier comments regarding the need to limit within year price changes we support the proposal not to reopen Transco's price controls. TGP interpret this as an implicit assurance that customers and shippers will not be subject to additional GT charges or higher than expected charging levels if the DN sale proceeds. We request Ofgem confirms this view by confirming that the proposed incentive scheme costs will simply result in flows of monies/costs between DNs and not result in cost recovery from shippers/customers.

Network service agreements (NSAs)

TGP would prefer the SOMSA, including operation under the terms of the SOMSA, to be subject to regulatory scrutiny to provide the market confidence that these proposed bilateral agreements do not discriminate between DNs and ultimately impact the quality of service delivery to shippers and customers. In addition we recommend the standard form of these documents be incorporated into the Offtake agreements.

Standards of performance

We support the obligations proposed in relation to customer survey and connections and recommend the obligations be worded to ensure consistency in reporting methods adopted by the DN-GTs to facilitate external comparison.

Business separation

We are intrigued as to why the implementation costs for NGT to achieve legal separation have been taken into account and then used to justify a decision against legal separation. In other areas Ofgem have rightly argued that any expense that NGT need to incur in order to make required changes to allow the sale to go ahead are costs that must be incurred by NGT outside of their regulated business. Either legal separation is required or it isn't and we are still unclear as to what has changed from the outset of the sale when Ofgem were insistent that it would be a requirement. We are also interested as to why licence conditions can now be justified instead of separation. This would appear to be contradictory to the approach being taken on exit where licence conditions are considered insufficient to prevent undue discrimination.



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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.)

Sharif Islam
Energy Regulation Manager

Tel: 0207 318 6880



Registered Office: 33 Cavendish Square, London W1G 0PW
Tel: 0870 5275 215, Fax : 0870 5275 213
Registered in England No. 2172239