



Transco, Shippers and
other interested parties

Direct Dial: 020 7901 7355

25 February 2005

Our Ref: IND/COD/MOD/745

Dear Colleague,

Request for Urgent Status for Modification Proposal 0745 "Modification of the Network Code into Transco's individual (Short Form) Network Code"

Summary

Transco plc ("Transco") has written to the Gas and Electricity Markets Authority ("the Authority"¹) to request that Modification Proposal 0745 "Modification of the Network Code into Transco's individual (Short Form) Network Code" follow urgent procedures.

Following careful consideration, Ofgem has today agreed Transco's request for modification proposal 0745 "Modification of the Network Code into Transco's individual (Short Form) Network Code" to follow urgent procedures. The reasons for making this decision are set out below.

Transco's proposal states that Modification proposal 0745 intends to allow for the creation of a multi-transporter commercial framework to support a divested industry structure. To achieve this, it is proposed that all the substantive content of Transco's Network Code is replaced with the text of the Short Form Network Code, to incorporate, by reference, the provisions of the Uniform Network Code (UNC).

The proposer stated that urgency status is warranted because the proposal is linked to an imminent date related event, namely, the divestment of part of Transco's distribution business into subsidiary companies. The proposer contends that the divestment process is dependent upon a sequence of interrelated events, the timing of which is critical to meet the transaction timetable. The proposer further stated that failure to complete these steps in sequence, and to time, could ultimately jeopardise the transaction with significant commercial consequences for Transco and the prospective buyers. Finally, the proposer noted that this could have a consequential detrimental impact on the benefits for customers that would otherwise result from the transaction.

Ofgem's decision on the request for urgency

Following careful consideration of the request, Ofgem has decided to grant the proposal urgent status. In reaching its decision, Ofgem has taken into account the proposer's views regarding the imminent date related event and the likelihood of significant commercial impact on Transco. Ofgem considers the justification for urgency accords with Ofgem's guidelines for granting urgency status to a

¹ Please note in this letter, the terms "Ofgem" and the "Authority" are used interchangeably.

modification proposal.² In particular, Ofgem considers that if the modification proposal were to follow non-urgent procedures, there is a risk that the benefits to customers that would otherwise result from the transaction, identified in Ofgem's Final Impact Assessment and the Authority's February 2005 decision document, may be lost.³

For the avoidance of doubt, in accepting this request for urgency, Ofgem has made no assessment of the merits of the modification proposal and nothing in this letter in any way fetters the discretion of the Authority in respect either of this modification proposal or in respect of any other matter related to gas distribution network (DN) sales. Furthermore no expectation can be drawn by Transco, NGT plc, prospective purchasers, shippers, suppliers and/or interested third parties as to what the Authority's final decision may be in respect of this modification proposal nor any other matter related to DN sales.

Urgency Timetable

Given the relationship between:

1. this modification proposal,
2. the section 8AA and section 23 licence modifications issued for consultation on 14 February 2005; and
3. Ofgem's consultation on the network code arrangements, including the Transco prepared draft UNC, which is scheduled to be released next week (subject to Ofgem receiving a draft UNC for consultation from Transco),

Ofgem has decided that the timetable for this modification proposal should align with the timetable adopted in relation to the Ofgem consultation on the network code arrangements. Ofgem considers it appropriate that an aligned timetable is followed to ensure transparency of information and to ensure interested parties in respect of both this consultation and Ofgem's proposed consultation on the UNC are fully informed of developments.

In relation to the UNC consultation, Ofgem has decided to adopt the following consultation structure⁴:

1. **Stage 1** – weeks 1 and 2 – draft UNC issued for consultation for two weeks. Responses to Ofgem and Transco;
2. Week 3 – Transco to consider responses, revise and reissue the UNC and a log of changes; and
3. **Stage 2** – weeks 4 and 5 – the revised UNC is subject to consultation with responses to Ofgem only.

As such, Urgent Modification Proposal 0745 will be released for consultation by Transco as soon as Transco has provided to Ofgem a draft UNC (this is expected to occur during the week commencing 28 February 2005). Two weeks after the release of the consultation, Stage 1 responses to the proposal will be due⁵. Transco will have one week to update its draft UNC as noted above, and then the updated draft UNC will be re-released for a final two week consultation window. During stage two, respondents to Urgent Modification Proposal 0745 will have a further opportunity to make comments in light of UNC developments.

² http://www.ofgem.gov.uk/temp/ofgem/cache/cmsattach/2752_Urgency_Criteria.pdf

³ *National Grid Transco – Potential Sale of Gas Distribution Network Businesses, Final Impact Assessment*, Ofgem, November 2004, and *National Grid Transco – Sale of gas distribution networks: Transco plc applications to dispose of four gas distribution networks, Authority Decision* February 2005 21/05.

⁴ More detail on this proposed consultation structure will be set out on the UNC consultation document scheduled to be released next week.

⁵ As will responses to the UNC in respect of the proposed Ofgem consultation

The Authority's decision in respect of Urgent Modification Proposal 0745 is expected in late April 2005. However, the timing of the Authority's decision is contingent upon Transco's timely delivery of the draft UNC and associated ancillary documents (see below). Further, it may be necessary to amend the timetable following consideration of responses to the consultation on Urgent Modification Proposal 0745 and/or Ofgem's consultation on the network code arrangements.

Transco's proposal recognises that in order to consider the proposal fully, industry participants require access to the ancillary documents that will support the proposed industry structure, including the Joint Governance Agreement, the Agency Services Agreement and the Offtake Arrangements Document, so that they can review the interactions between these documents and the UNC. Ofgem agrees that these documents must be released in sufficient time to allow industry participants to consider all aspects of the proposal. If these documents are not made available, the timetable for the consideration of the proposal will need to be revisited.

If you have any queries in relation to the issues raised in this letter, please feel free to contact me or alternatively, Jessica Hunt on 020 7901 7431.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'N. Simpson', with a stylized flourish at the end.

Nick Simpson

Director, Modifications

Signed on behalf of the Authority and authorised for that purpose by the Authority