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Dear Sonia,

Gas distribution network sales – Consultation on network code arrangements

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

Specific UNC comments

As requested by Transco, BP has submitted its specific comments on the proposed drafting of the UNC in the template provided. This is included as an attachment to this letter.

We should, however, point out that we have not had sufficient time to properly consider all elements of the UNC and have particular concerns around Section J (Exit).

I would now like to take this opportunity to express some of BP's views on certain elements of the DN Sales process;

Process and timescales

You will be aware from our previous consultation responses that we have been extremely concerned with regard to the overly ambitious timetable for DN Sales. Throughout the programme we have expressed our serious concern regarding the huge volume of documentation produced with insufficient time allowed for proper review or consultation.

BP believes that the timeline for DN sales set out by NGT has precluded the ability to fully participate in the development of the new industry arrangements. The industry has repeatedly expressed concerns over the amount of parallel work being undertaken, last-minute provision of information shortly before a meeting at which it is to be discussed (with little or no time for prior review), premature publication of documents whilst business rules remain to be agreed, last-minute changes to meeting schedules, the inclusion of areas

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outside those necessary to delivery the DN sales programme and changing the "plan" at short notice e.g. the two-stage UNC consultation. This has, as you may imagine, created significant problems for those of us with finite available resources.

BP believes that the constrained timescales associated with DN Sales, the most significant change to the structure of the UK gas market since the introduction of competition, can only lead to concerns regarding the robustness of the new regime in the short to medium term. The process has not allowed for sufficient consideration of the detail of the proposals, and consequently BP does not feel assured that the transition to the new regulatory, commercial and operational regime will be as smooth as might be desired. What is not yet known is the level of "sweep up" that will be required after the event.

Costs

Ofgem has paid little or no regard to the significant costs that will be incurred by Shippers, whilst consumer benefits remain to be proven. BP believes that Shipper costs have been underestimated in Ofgem's Final Impact Assessment, and only time will tell whether Ofgem's calculation of the net benefit to the consumer is delivered.

Governance

It remains our view that the level of change being introduced to the governance process is in excess of that necessary to support the sale of the DNs. BP continues to support the principles of minimum change as set out in the industry letter to Ofgem from the UNC review group. In particular, we are concerned that the likely effect of the proposals is that Shipper User rights would be diminished as a result of proposed changes to the existing Network Code to reflect the multi-transporter environment. The level of "policy making" by the DISG particularly in light of the governance proposals continues to give BP cause for concern. It has been suggested that the revised governance proposals were developed by the industry and agreed with them through the DISG. However this is inconsistent with analysis of the minutes of the group or with the experience of a number of those present, and we support those concerns set out in more detail in the Gas Forum's letter to Alistair Buchanan on 3 March 2005.

We believe that the changes proposed could cut across the work being done by the DTI on the appeals process and would prefer to wait before making change to the industry Network Code.

Exit Regime

As we have previously stated, BP does not believe that fundamental exit reform is a pre-requisite for DN sale. Although Ofgem have stated that they agree with industry participants that exit reform should not run in parallel to DN sales, it has been intrinsically linked to the process by the inclusion of conditions within the proposed gas transporters' licence. Imposing conditions on NGT and the new DN owners to implement exit reform by 1 September 2005 gives the industry an extremely short period of approximately three months in which to implement new processes. All this is due to happen at a time when Shippers will be preoccupied with adjusting to the new regulatory, commercial and operational regime introduced by the sale of four Distribution Networks.

Exit reform is a fundamental change to the way that the industry operates. The timeframe that is being proposed leaves insufficient time for proper consultation or to effect successful implementation. Ofgem point out that the NTS needs a stable regulatory regime, yet propose fundamental exit reform without being able to convince the majority of customers or participants of the need for such change.

Metering

BP remains deeply concerned by the lack of time for commercial negotiation of the revised metering contracts and the significant number of new agreements required to be in place before Hive Down. As separate agreements are required for each Supplier ID some participants face signing between 20 to 100 plus agreements.

Signing process for DN Sales agreements

It is imperative that both Ofgem and Transco appreciate the timescales required within commercial organisations to review, approve and sign-up to new agreements for changes of this magnitude.

We have internal assurance processes that have to be completed. Before this can be done we must have sight of final documentation that we are required to sign on to so that we are able to carry out a full business and legal review. Only once the documents have been approved by the relevant internal departments can sign-off be given under our internal assurance process. Until this has been achieved we are not able to obtain the relevant power of attorneys required to enable execution of the documents in the timeframe and in the manner notified to us.

The position as it currently stands is that we have no definitive list of the documents that each of our Shipper entities will be required to sign or novate, nor the dates on which each specific document may be signed. We have had various communications from Transco on an incomplete piecemeal basis which has confused rather than informed the process. We have discussed this with our Account Management representatives at Transco, and we now understand that steps are being taken to centrally co-ordinate the signing process.

This is not just about signing up to the new Framework Agreements with IDNs. We are also aware that Metering, Siteworks, Security Cover and NExAs will be impacted, and further understand that there may be implications for agreements such as Confidentiality Agreements. Transco do not yet have comprehensive lists of these documents, and say that they are working on these on a Shipper-by-Shipper basis.

I must emphasise that the sooner we are provided with these lists, and the associated documents, the sooner we will be able to complete our internal assurance process and organise arrangements for the signing of documents.

I hope that you find our comments helpful. Please do not hesitate to contact me if you would like to discuss.

Yours sincerely,

Beverly Ord
Regulatory Affairs

Copied to: Richard Todd, National Grid Transco, by email