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## Gas distribution network sales consultation

Dear Sonia

Thank you for the opportunity to comment of the sale by National Grid Transco of four of their Distribution Networks and the proposed Uniform Network Code. We have a number of concerns with regard to certain aspects of the process and especially the timescales available, but we wish to reserve our position until the final response at the end of stage 2 on 12 April. We will be commenting upon Mod 745 at that time.

We have been active participants in the workshops, review groups and other industry forums, providing input, suggestions and identifying amendments at all stages of the creation of the Uniform Network Code.

Due to the constraints placed upon us by the National Grid Transco imposed timetable we have had to concentrate our efforts upon those sectors which we believe have undergone the most changes, or where the introduction of multiple transporters is most likely to have significant impact upon Shippers. The results of our endeavours are noted in appendix 1. We are uncomfortable with the fact that this means that there are a number of sections, which, at best, have only had the most cursory of inspections. As a consequence we may have missed sections of the new code where the meaning has been changed beyond that which was the intention when it was drafted. We acknowledge that there will be the opportunity to correct any such changes via the modification process post hive down. Should such an event occur then we would hope that Ofgem would facilitate the speedy rectification of the matter so that the original intention of the clause in the old Network Code was restored as quickly as possible. We are aware that from a legal point of view the new code should take precedence but we hope that a way might be found so that the meaning in the old Network Code would hold good until an appropriate amendment to the Uniform Network Code had been implemented.

An additional matter of concern to us is that due to the timetable, we have not been able to check all the cross-references within this document. Where we have done so, normally as result of a major change to the wording, we have identified a number of errors. These, we have identified in the attached table. What does concern us is the

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number of instances we have identified from such a small sample. Should this be reflected in the whole of the Uniform Network Code, then there will be a very significant number of errors. I trust that National Grid Transco will have been using the past fortnight to check all of these cross-references.

We have noted also that different sections of the Uniform Network Code do not have the same consistency of language and drafting conventions. Consequently there are subtle differences in the construction of the clauses. Whilst in themselves these are not critical, they underline the hurried and piecemeal method of putting this document together.

We have considered the Joint Governance Agreement, and the Agency Services Agreement. Whilst we are not party to these agreements, we are subject to their effect. For example, in the case of the former, should the Joint Office not fulfil its obligations in the most efficient or proper manner, Shippers have no remedy. In the case of the latter there are number of services identified in the Agreement but not included in the code. Since the code is our contractual position we would have expected the Uniform Network Code to reflect these additional services. We have identified a number of other issues with regard to these documents, which are noted on appendix 2.

There are additional matters that whilst not directly related to the creation of the Uniform Network Code, but are as a direct result of the sale. For example we are required to supply double credit cover for the sold Distribution Networks for about two months over the sale date. This, in itself, is not material, but is an additional cost to Shippers.

We welcome the introduction of the concept of the Agency as the mechanism to minimise the amount of changes for Shippers. It is welcomed that this concept is now enshrined in the Uniform Network Code section V.6.5. Since the services to be performed by the Agency on behalf of the Transporters are described in that section of the Code, we wonder why the use of the term "Agency" is not standard elsewhere.

We note with interest that Transporters have made provision for the possibility of a party to cease to be a Gas Transporter within the terms of Joint Governance Agreement. There is no provision for such an event within the Uniform Network Code. We raised this point at one of the drafting meetings, and the Ofgem representative gave reassurance about the financial health check process that the new Transporters have to undergo. However, events in the past few years have demonstrated, how rapidly the financial position of even the most apparently well run foreign institution can deteriorate. This is by no means to imply any concern or criticism of any current or future market participant, but merely an observation that no provision for such an event exists in the Uniform Network Code and perhaps the industry should consider this once the Uniform Network Code is established.

Throughout the Uniform Network Code there are numerous references to other documents, some in common usage and others which may not have been looked at for sometime. For the sake of good practice, we suggest that all ancillary agreements and any other document as referred to the Uniform Network Code should be made available for scrutiny. It is unlikely that these will be thoroughly studied in the short term but we will have the opportunity to check their appropriateness in the coming months. We have identified a number of the documents in appendix 3, but acknowledge that this list is by no means complete, and would look to National Grid Transco to ensure a total library is made available and transparent to Shippers and other Transporters.

A copy of this letter with the appendices will be sent to Richard Todd at National Grid Transco.

I would be happy to discuss any of the issues raised with you.

Yours sincerely,

Simon Howe  
Gas Network Codes Manager