

National Grid Transco – Potential sale of gas distribution network businesses
Formal consultation under section 23 and section 8AA of the Gas Act 1986

15 April 2005

The Association of Electricity Producers welcomes the opportunity to comment on this consultation. We recognise that this consultation considers many detailed issues concerning the licence changes associated with the proposed DN sale. We restrict our comments to those licence conditions of more direct commercial relevance to our Members.

ASC4 & 4A Transportation Charging

The Association supports the proposals below:

- The NTS GT will be obliged to use reasonable endeavours to make changes to charges and its charging methodology for flow flexibility and exit capacity once a year on 1 October
- The DN GTs will be obliged to use reasonable endeavours to make changes to charges and charging methodology once per year on 1 October

The Association does not support the proposal:

- The NTS GT will be obliged to use reasonable endeavours to make changes to other charges and its charging methodology twice a year on 1 April and 1 October.

With respect to this latter proposal we are surprised that Ofgem has moved from its original position where it appeared to favour restricting changes to charges and methodology to once a year. We consider that changing charges once a year on 1 October is in customers' interests as this will reduce uncertainty in charges and improve charging stability. An important aspect of this is the notice period for changes to charges and we welcome the retention of the 150 day notice period.

We are also concerned that the proposals are insufficiently clear. Do the restrictions on changing charges that relate to exit capacity and flow flexibility relate to all charge elements of these products or just the capacity element? Are TO commodity charges (arising from an under or over recovery of revenues following exit capacity auctions) and flow flexibility commodity charges restricted to a once a year change? In our view the revenue arising from the proposed commodity charge is exit capacity or flow flexibility revenue and should be restricted to a once a year change.

SC 16 Pipeline system security standards

The proposal is to include a within day element to the 1 in 20 security standard, by incorporating this into SSC A9 applicable to all GTs and then switching off SC16.

The Association agrees that the security standards should be consistent across all gas transporters and is comfortable with the proposal in so far as this does not lead to a lower degree of system security.

SSC A55 Enduring offtake arrangements

The proposal is to introduce a new licence condition that requires all gas transporters to use best endeavours to implement the enduring offtake arrangements by 1 September 2005.

The Association does not support the introduction of this licence condition. We consider it unduly onerous on the gas transporters and the rest of the industry to be forced to work to such tight timescales over such important issues. More importantly we consider this to be

completely unnecessary as the reforms are not in customers' best interests; impacting on competition in supply and in the longer term security of supply.

It is clear that Ofgem considers this licence condition necessary to ensure the enduring offtake arrangements are implemented. If such wholesale reform to the NTS exit capacity arrangements is required for network owners to comply with their licence conditions concerning non-discrimination, facilitating competition and economic and efficient operation then they should be willing to bring forward such proposals in the absence of this licence condition. We therefore conclude that this licence condition is unnecessary and should be removed.

If Ofgem maintains its view that these reforms are necessary and this licence condition is required, it should consider if this type of regulatory intervention is consistent with the principles of better regulation to which Ofgem claims to be committed and fully contemplate why there is so much opposition to the proposals from all sectors of the industry. We suggest that all aspects of the proposals are subject to a full stand alone regulatory impact assessment as many elements of the reforms were not well defined nor were their implications fully understood at the time of the final impact assessment for the DN sale as issued in November 2004.

We would also like to flag our concerns over the timescale. September 2005 is now less than five months away and yet considerable uncertainty persists over many key issues including baselines and prices. This uncertainty will not be reduced until the licence, charging methodology and modifications(s) are approved. We note that when long term auctions were introduced at entry the modification was approved and licence conditions finalised three and a half months before the auctions took place. We consider that at exit more time will be needed as there is an extra link in the supply chain. Customers that are directly connected to the NTS will need to contract with shippers to ensure that their long term capacity and flow flexibility needs are secured. This may well require a new form of contract to be negotiated and drafted, since long term liabilities will be created that may extend beyond the current gas supply contract. We therefore suggest that a period of at least six months is allowed between finalisation of all the UNC and licence changes and the first long term auctions.