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Relevant Gas Transporters and other
interested parties

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Dear Colleague,

Clarification of Ofgem's role in relation to ARCAs

The purpose of this letter is to provide clarification of Ofgem's role in respect of Advanced Reservation of Capacity Agreements (ARCAs) for National Transmission System (NTS) capacity. This is intended to assist parties that are considering entering into any such agreements within the transitional offtake arrangements.

Background

Given the Authority's decision, in June 2005, to delay the implementation of the long term "enduring" offtake arrangements by two years, it has been necessary to consider the arrangements for the allocation of NTS offtake rights to NTS connectees (that is the Distribution Networks (DNs) and customers directly connected to the NTS (DCs)), for the period between 1 October 2008 (the time at which the interim arrangements end) and 1 October 2010 (the time at which the enduring arrangements begin) (the "transitional period").

On 25 November 2005, National Grid NTS re-released a consultation on its Incremental Exit Capacity Release Methodology (IExCR) given further consideration of the implications of the transitional arrangements. The IExCR proposed by National Grid NTS extends the requirement for an ARCA, currently only applicable to DCs, to DN in respect of requests for incremental NTS offtake capacity, in the event that DN capacity requests trigger specific reinforcement of the NTS.

This "DN ARCA" would outline the amount of NTS offtake capacity rights the DN requests from National Grid NTS, the date at which these rights are required, and also outline the financial implications of either party defaulting on the terms of the agreement.

An Advanced Reservation of Capacity Agreement (ARCA) is an agreement between National Grid NTS and a connecting party to provide:

- ◆ National Grid NTS with additional protection from the risks associated with investing in its system to supply new loads; and

- ◆ the connecting party with assurances that the appropriate capacity will be available on the stated first day of the delivery of gas.

The purpose of this letter is to clarify Ofgem's role in relation to these agreements given that a number of respondents to recent National Grid NTS consultations¹ and Ofgem's recent Initial Proposals consultation² on the transitional incentives have raised concerns with the DN ARCA arrangements proposed by National Grid NTS for the transitional period.

Ofgem's role

As noted in Ofgem's Final Proposals consultation³, which was published on 25 November, there is no express power of the Authority to review or approve either DC or DN ARCAs.

Furthermore, it is Ofgem's view that there should not be ex ante intervention in what should be commercially negotiated arrangements within the transitional regime⁴. Ofgem would note that, in proposing ARCA terms and conditions, National Grid NTS remains subject to its statutory and licence obligations. For example, section 9 of the Gas Act 1986 (the Act) obliges gas transporters (GTs) to:

- ◆ ensure the efficient development and maintenance of its pipe-line system;
- ◆ comply, so far as it is economical to do so, with any reasonable request for it to connect any premises to its system and convey gas by means of that system to the premises; and
- ◆ avoid any undue preference or undue discrimination in connections or the terms under which it undertakes the conveyance of gas through its systems.

Furthermore, Ofgem would note that, if parties have a dispute regarding the terms of the ARCA, which cannot be resolved commercially, such disputes could be referred to the Authority for determination provided that such disputes fall within the Authority's powers under the Act, for example, in relation to sections 19, 21 or 27A of the Act.

If you wish to discuss any aspect of this letter, Mark Feather (telephone 0207 901 7437) would be pleased to assist.

Yours sincerely

Robert Hull
Director, Transmission

¹ Consultation on the Incremental Exit Capacity Release (IExCR) Methodology Statement and SC4B Licence Statements to support the Transitional Gas Exit Capacity Arrangements proposed in UNC Modification Proposal 0046, August 2005.

² 204/05 - [Initial proposals on transitional incentive schemes supporting the offtake arrangements](#), Ofgem, 21 September 2005.

³ 252/05 - *Final proposals on transitional incentive schemes and formal licence consultation under section 23 of the Gas Act 1986 and paragraph 3(a) of Standard Special Condition A2*, Ofgem, 25 November 2005

⁴ Subject to the Authority's role under the Competition Act 1998