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16 December 2005

Dear Colleague,

Enduring Offtake Working Group

As part of its January decision to consent conditionally to the sale of four gas Distribution Networks (DNs), the Authority concluded that the continued development of the “enduring” offtake arrangements¹ was necessary to protect the interests of customers in a divested industry structure.²

Prior to the sale, it was envisaged that an “enduring” regime for National Transmission System (NTS) offtake arrangements would be implemented in September 2005 to apply to capacity released from 1 October 2008 onwards³. However, in June 2005, the Authority decided to delay the implementation of the enduring offtake arrangements until September 2007 for the release of NTS offtake rights from 1 October 2010⁴ to, amongst other things, allow the further consideration of potential interactions with the NTS entry capacity regime as part of the transmission price control review (TPCR) process. However, in delaying the implementation, the Authority noted that the enduring offtake arrangements remain an important aspect of the regulatory, commercial and operational framework necessary to protect customers’ interests in a divested industry structure.

Given this delay decision, Ofgem is currently considering a number of high level options for the development of the enduring regime for gas offtake as part of National Grid’s transmission price control review. These options are set out in Ofgem’s December TPCR consultation.⁵

¹ As described in: *National Grid Transco – Potential sale of gas distribution network businesses – Final Impact Assessment*, Ofgem, November 2004.

² *National Grid Transco – Sale of gas distribution networks: Transco plc applications to dispose of four gas distribution networks*, Authority decision, February 2005.

³ Consistent with typical investment lead times of three years.

⁴ 151/05 - [Enduring offtake arrangements](#), 24 June 2005, Ofgem

⁵ *Transmission price control review, Second consultation*, Ofgem, December 2005.

It is envisaged that the introduction of the enduring offtake arrangements will involve considerable debate amongst industry participants, ultimately leading to changes to the Uniform Network Code (UNC), which would be progressed in detail at the UNC Transmission Workstream, as well as to the relevant gas transporter licences.

Given that there is considerable scope for the introduction of the enduring arrangements to directly impact upon customers as well as shippers, we believe that it is appropriate to establish a working group comprising a broad cross-section of the industry, including customers. This group would be known as the Enduring Offtake Working Group.

Ofgem considers that the establishment of such a group should assist in informing industry participants of Ofgem's views on the rationale underlying the introduction of the enduring arrangements as well as the options being proposed for implementation through the transmission price control process. The group would provide a forum for detailed discussion of Ofgem's proposals enabling members to comment on the proposals and suggest improvements or changes. In addition, the forum would also provide an opportunity for participants to suggest and develop alternative proposals.

It is initially intended that the group would convene through January, February and March 2006 ahead of the release of Ofgem's third transmission price control consultation document. Consideration would then be given to extending the work of the group beyond this time.

Ofgem considers that the scope of the Working Group would include:

- ◆ detailed discussion of any proposals for enduring access arrangements and incentive framework for NTS offtake;
- ◆ consideration of the wider impacts of any proposals to implement such arrangements; and
- ◆ consideration and development of suggested amendments to existing proposals and alternative proposals as part of the implementation of enduring offtake arrangements.

It is important to note that the group is a discussion group and would not be a decision making body. In particular, nothing presented or discussed at the group can have the effect of fettering the Authority's discretion in relation to any decisions it takes on the enduring offtake arrangements.

The activities of the Working Group would be communicated to interested parties, through meeting minutes, Ofgem workshops and through the UNC Transmission Workstream.

The Working Group would ideally consist of a representative mix of interested parties, who have knowledge of, and have shown an interest in, the NTS exit capacity regime. Ofgem has decided that, in order to facilitate constructive discussion of potentially complex issues, the Working Group should, whilst maintaining an open door policy, have a number of standing members. Standing members would attend meetings of the Working Group on a regular basis and would be expected to contribute thinking and, where relevant, proposals to the discussions as well as giving presentations to the group.

Ofgem considers that there should be eight to ten standing members, including an Ofgem and National Grid NTS representative.

The purpose of this letter is to seek interest from industry participants to be standing members of the Enduring Offtake Working Group. It would be helpful if interested parties could confirm their interest by email to mark.feather@ofgem.gov.uk and also indicate the interests that they represent e.g. in the case of shippers, the portfolio of customers for which they ship gas.

It is Ofgem's aim to hold Working Group meetings at least once a month, and once every 2 weeks, where possible. Ofgem proposes to host the first meeting in early January 2006.

Enclosed with this letter is a copy of the draft terms of reference for the group. It is envisaged that this draft would be discussed at the first meeting of the group.

I would be grateful if responses to this invitation could be submitted by Friday 23 December 2005.

Yours sincerely,

Mark Feather
Associate Director, Networks

Draft Terms of Reference

Enduring Offtake Working Group

Group composition

Chair: Mark Feather

Ofgem

National Grid NTS

Gas Distribution Networks (standing members TBC)

Shippers and Customers (standing members TBC)

Background

As part of its January decision to consent conditionally to the sale of four gas Distribution Networks (DNs), the Authority concluded that the continued development of the “enduring” offtake arrangements¹ was necessary to protect the interests of customers in a divested industry structure.²

Prior to the sale, it was envisaged that an “enduring” regime for NTS offtake arrangements would be implemented in September 2005 to apply to capacity released from 1 October 2008 onwards³. However, in June 2005, the Authority decided to delay the implementation of the enduring offtake arrangements until September 2007 for the release of NTS offtake rights from 1 October 2010⁴ to, amongst other things, allow the further consideration of potential interactions with the NTS entry capacity regime as part of the Transmission Price Control Review (TPCR) process. However, in delaying the implementation, the Authority noted that the enduring offtake arrangements remain an important aspect of the regulatory, commercial and operational framework necessary to protect customers’ interests in a divested industry structure.

Given this delay decision, Ofgem, as part of the work on the National Grid TPCR, is currently considering a number of high level options for the development of the enduring regime for gas offtake, in the context of potential options for gas entry capacity and electricity transmission incentive arrangements.

¹ As described in: *National Grid Transco – Potential sale of gas distribution network businesses – Final Impact Assessment*, Ofgem, November 2004.

² *National Grid Transco – Sale of gas distribution networks: Transco plc applications to dispose of four gas distribution networks*, Authority decision, February 2005.

³ Consistent with typical investment lead times of three years.

⁴ 151/05 - [Enduring offtake arrangements](#), 24 June 2005, Ofgem
Office of Gas and Electricity Markets

It is envisaged that the introduction of the enduring offtake arrangements will involve considerable debate amongst industry participants, ultimately leading to changes to the Uniform Network Code (UNC), which would be progressed in detail at the UNC Transmission Workstream, as well as to the relevant gas transporter licences.

Given that there is considerable scope for the introduction of the enduring arrangements to directly impact upon customers as well as shippers we believe that it is appropriate to establish a working group comprising a broad cross-section of the industry, including customers. This group would be known as the Enduring Offtake Working Group.

Objectives for offtake arrangements

The objectives for the gas offtake arrangements are as detailed in the December 2005 TPCR consultation, namely:

- ◆ **Compliance with applicable legal requirements.** Such as those within the Gas Act, the Electricity Act and relevant European law;
- ◆ **Efficient network development and system operation.** Transmission companies should have incentives to respond to changing demands for capacity by network users, including optimising the use of existing capacity. In addition, demands for capacity should be backed by appropriate and proportionate long term firm financial commitments by network users, particularly given the long term nature of the underlying investment. This should lead to stranded asset risks being minimised;
- ◆ **Preventing undue discrimination.** The transmission licensees are prohibited by statute and/or their licences from discriminating between certain persons and/or classes of persons. Nonetheless, there are advantages – in terms at least of the transparency of the licensees’ compliance with these non-discrimination requirements – to designing a price control which prevents or limits to an appropriate and practicable extent the scope for undue discrimination between users and/or categories of users;
- ◆ **Promotion of competition.** The arrangements should, to an appropriate extent, promote competition between industry participants (eg electricity suppliers, gas suppliers, gas shippers, and between GDNs and gas

shippers in the context of accessing NTS offtake capacity and offtake flexibility);

- ◆ **Appropriate allocation of risk.** Risk should be allocated appropriately between transmission companies, network users, and consumers, and the returns available to transmission companies should be appropriate to the risks they face;
- ◆ **Preservation of security of supply.** The framework proposed should allow transmission companies to make investment and operational decisions which are consistent with security of supply requirements;
- ◆ **Simplicity and transparency.** The package of incentives should form a consistent and coherent whole, recognising interactions between different types of incentives, and should be implemented, to the extent appropriate and practicable, in a simple and transparent manner;
- ◆ **Stability.** The price control package for transmission companies should be designed with the intention for it not to be re-opened before the next scheduled review date;
- ◆ **Minimise implementation costs.** The arrangements should not impose disproportionately high implementation or administrative costs on industry participants, recognising that such costs might be expected ultimately to be passed on consumers; and
- ◆ **Clear and appropriate accountability and responsibility.** The arrangements should ensure an appropriate balance between Ofgem and the transmission companies in terms of accountability and responsibility, based on clearly defined obligations and, where possible, ensuring minimal ongoing regulatory intervention and involvement, consistent with the principles of better regulation.

Scope of work

The scope of the matters for consideration by this Working Group is confined to the development of arrangements for the offtake of gas from the NTS consistent with the objectives defined above. Given the intrinsic link between offtake arrangements and

incentives, the scope shall include the potential for the development of arrangements to be embodied in both the UNC and the relevant gas transporter licences.

It is important to note that the group is a discussion group and would not be a decision making body. In particular, nothing presented or discussed at the group can have the effect of fettering the Authority's discretion in relation to any decisions it takes on the enduring offtake arrangements.

Terms of reference

1. Consider and comment upon any proposals brought forward by National Grid NTS / Ofgem and the extent to which they would:
 - ◆ deliver against National Grid NTS's licence obligations;
 - ◆ deliver against the identified objectives; and
 - ◆ impact upon other parts of the regime;
 - ◆ suggest and consider changes or enhancements to the proposals.
2. Where appropriate, suggest and consider changes or enhancements to the proposals.
3. Where appropriate, identify and discuss potential alternative proposals and the extent to which they would:
 - ◆ deliver against National Grid NTS's licence obligations;
 - ◆ deliver against the identified objectives; and
 - ◆ impact upon other parts of the regime.

Deliverables

1. Publish summaries of the minutes and key points raised in each meeting.
2. Publish and regularly update an action log of the meeting.
3. Report back to the UNC Transmission Workstream and Ofgem industry workshops on offtake arrangements issues.