

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 or other parties 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.