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29th July 2009

Dear Mark,

Review of Industry Code Governance – Environment and Code Objectives

Thank you for the opportunity to comment on your letter published 16 June 2009 that sets out Ofgem's proposals to issue formal licence modification consultations relating to code objectives and the inclusion of the assessment of environmental impacts of modification proposals.

This response reflects the views of Wales & West Utilities Ltd and we are responding in our role as a Gas Distribution Network (GDN) that is party to the Uniform Network Code (UNC). Our comments are made predominately in relation to the UNC unless otherwise stated.

We responded to the Ofgem consultation issued in November 2008 and our position on this matter has not changed. We agreed with Ofgem that the existing legal framework, namely the provisions within Standard Special Condition (SSC) A11 of the gas transporter licence and the provisions within the Uniform Network Code (UNC) Modification Rules, are already sufficient.

Both SSC A11 and the UNC Modification Rules enable, and in our opinion require, industry participants and UNC Panel members to take account of the impacts of the implementation of Modification Proposals on Green House Gas (GHG) emissions.

We also agree with the Ofgem view detailed in the Final Guidance document; that we have the ability to assess the economic impact of GHG emissions by placing a financial value on it using mechanisms such as the shadow price of carbon under the European Union Greenhouse Gas Emission Trading Scheme (EU ETS). This financial impact is then considered along the existing relevant objective of "*the efficient and economic operation of the pipe-line system*" (SSC A11(1)(a)&(b)).

The existing framework does not limit the impact of UNC Modification Proposals to WWU or to the gas industry. Industry participants are required to take into account "*the implications of the implementation for other relevant persons...*" and is in no way limited to UNC signatories. Therefore if a UNC Modification Proposal has a direct environmental impact this obligation already requires consideration of those issues on a wide basis, rather than just being limited to the licensee.

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As with GHG emissions, there are very few, if any, examples of where a UNC Modification Proposal will have "broader environmental impacts". For example, there may be occasions when a UNC Modification Proposal relates to a gas facility that, during construction or operation, may have such impacts. However, it is unlikely that these impacts will be as a direct result of the actual Modification Proposal and we would expect these matters to be considered by the appropriate local / national planning and environmental regulations.

Although we do not envisage many, if any, future Modification Proposals requiring such environmental impact analysis, we do recognise that the appropriate mechanisms need to be in place should the need arise. This matter has been discussed at the UNC Governance Workstream and several options for how this could be achieved have been considered. We believe, as this is already a requirement on UNC parties, that the modification process should enable such analysis to be incorporated. This could be achieved by simply amending the UNC Modification Proposal template to include any environmental impacts that have not been included in the assessment against SSC A11.1(a)&(b) of our gas transporter licence. In summary, we do not believe that a licence modification is appropriate and that this matter should be resolved within the UNC governance framework.

We would also like to take this opportunity to raise our concern that when considering this matter Ofgem have chosen to ignore the iGT UNC and the corresponding Standard Licence Condition 9 of the gas transporters licence. In this case we do not believe these proposed changes are necessary for either gas code but see no reason for the exclusion of the iGT UNC from this process.

Suggested legal text

The proposed licence modification to paragraph 15 of SSC A11 of our gas transporter licence seeks to insert an additional sub-paragraph to 15(a)&(b). The letter states that:

"the licence modifications are intended to clarify the position that panels and industry, where relevant are required to take into account the impact a code modification may have on the level of GHG emissions in the environment, when assessing such modification against the relevant code objective governing efficient and economic network operation."

The proposed insertion of the new paragraph 15(a)(iv) is:

"including an assessment of whether and if so the extent to which a modification proposal would better facilitate the achievement of the relevant objectives, such assessment to include, where applicable, an assessment of the financial impact of green house gas emissions on society;"

The proposed legal text does not seem aligned with the intent of the letter. The relevant code objective governing the efficient and economic operation of the network is contained within paragraph 1(a) of SSC A11 and, in our opinion, all Ofgem seek to do is to clarify that GHG emissions assessment should form part of this.

The proposed sub-paragraph inserts a new, and potentially duplicated, requirement for transporters to include an assessment of whether, and if so the extent to which, a modification proposal would better facilitate achievement of the relevant objectives within the notice given to the Authority under paragraph 15(a). The Final Modification Report, issued by the Joint Office on behalf of the Transporters, will summarise the proposer's view, and



any views received within representations, relating to whether the proposal will better facilitate achievement of the relevant objectives.

We hope that this response is helpful to you and would welcome any further discussion on this matter. In the meantime, if you have any questions that we can assist you with then please either contact me or Simon Trivella (contact details below).

Yours sincerely,

A handwritten signature in black ink, appearing to read "S. Edwards", with a long horizontal flourish extending to the right.

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