

David Reilly
Gas Systems
Ofgem
9 Millbank
London
SW1P 3GE

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Dear David,

RE: Consultation on proposals to implement aspects of Regulation (EU) 2017/460, the European Network Code on harmonised transmission tariff structures for gas (TAR NC)

I am pleased to provide some views on how you propose to ensure that certain aspects of the EU tariff network code (TAR NC) are to be complied with by modifying the gas transporter licence of National Grid Gas plc (NGG).

There are two areas where we have some concerns – the ability of NGG to deliver UNC Modification 0621 by March 2018 and the interaction of the UNC and TAR NC consultation processes.

Delivery of UNC Modification 0621

Ofgem proposes that NGG have a reasonable endeavours obligation to deliver a Draft Modification Report (DMR) on UNC Modification 0621 by no later than March 2018. We understand the imperative of delivering the modification in a timely manner and have worked extensively and consistently with NGG, Ofgem and other industry parties in developing the proposal to date. However, it is clear to us that there remains a significant amount of work to be done to develop a detailed, new gas transmission charging methodology and that a 5 or 6-month programme of work may not provide sufficient time for a quality product to be defined. Furthermore, we anticipate alternative modification proposals being raised which will be an added pull on limited resources. Since alternatives can be raised at any time before the DMR is completed it is not within the gift of NGG to meet your desired timeline whether they have a reasonable endeavours obligation or not. If Ofgem foresee a risk of significant timetable slippage it may be prudent to ask the NTS Charging Methodology Forum to define, as a contingency, a slimmed-down charging methodology proposal to provide an acceptable and justifiable level of EU TAR compliance, one that balances the requirements of that code with the reasonable expectations of stakeholders.

Aligning the consultations required under TAR NC and the UNC

The proposal is for NGG to use the DMR as a vehicle for conducting the TAR NC (Article 26) consultation. In effect, the TAR NC and UNC consultations would be run simultaneously. The motivation would appear to be a desire to run these consultations efficiently and to allow Ofgem to take into consideration the views of ACER before making a minded to decision.

Our chief concern with the suggested approach is that the views of ACER might carry undue weight with Ofgem when it comes to making a minded to decision on UNC Modification 0621 and any alternatives. While ACER's views must be sought for TAR NC purposes, there is no requirement for those views to be binding. We would be concerned if Ofgem were to take a different position and give prominence to ACER's opinions over those of UK

stakeholders. We are unclear on the extent to which ACER will be sufficiently informed on UK market requirements and conditions (including security of supply and impacts on consumers) to fully appreciate the wider implications of any given charging methodology proposal. We consider that a much better process would be to base the TAR NC consultation on the Final Modification Report, which would include a summary of all representations made by interested industry parties, together with an early minded to opinion from Ofgem.. This would provide ACER (and any other interested stakeholders) with more information on which to form a view and could include the views of parties not actively involved in the development of the DMR.

More generally, we consider that the UNC change governance process is being disrupted and imposed upon by the proposed simultaneous consultation process. The potential lack of process and decision-making transparency arising from this could significantly undermine the UNC change process on this occasion, could give rise to legal challenge and provide a poor precedent for the future.

Yours sincerely,

Graham Jack
Regulatory Manager