

Bob Fletcher
UNC Panel Secretary
31 Homer Road
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07 May 2010

Dear Bob

EDF Energy response to UNC Modification Proposal 0284: "Removal of the Zero Auction Reserve Price for Within-day Daily NTS Entry Capacity (WDDSEC)".

EDF Energy welcomes the opportunity to respond to this UNC Modification Proposal. We strongly oppose implementation of Modification Proposal 0284.

We believe that the wider impacts of this proposal significantly outweigh any benefits that may be observed. We are concerned that:

- Implementation of this proposal will further add to the regulatory uncertainty in the UK. This could detract from further investment and so threaten the UK's security of supply position.
- This proposal has failed to undertake any analysis on the impact that this proposal will have on competition and Shippers. In particular no analysis has been undertaken to identify whether any particular "class" of Shipper books shorter or longer term entry capacity.
- This proposal could have a detrimental impact on prompt liquidity and NBP volatility by reducing the attractiveness of the UK for marginal gas supplies.
- Implementation of this proposal fails to reflect the operational requirements of Shippers who have a portfolio of offshore supplies and are unable to identify what their capacity requirements are in the longer term.
- Implementation of this proposal will reduce the attractiveness of maintaining declining offshore fields and so reduce the longevity of these fields. This will have a detrimental impact on the UK's security of supply and tax revenue.
- This proposal fails to take account of developments in Europe, and so runs the risk that this proposal will need to be reversed in the near future.
- This proposal is contingent on implementation of Transportation Charging Methodology Proposal GCM19, changes to NGG NTS' Licence and future additional UNC proposals. Without implementation of these none of the relevant objectives will be facilitated.

In relation to the Modification Proposal EDF Energy would make the following specific comments:

3. Extent to which implementation of the proposed modification would better facilitate the relevant objectives.

Standard Special Condition A11.1 (a): the efficient and economic operation of the pipe-line system to which this licence relates;

EDF Energy disagrees with the proposer that implementation of this proposal would encourage longer-term bookings of entry capacity and so improve NGG NTS' ability to operate the system. In particular we note that this proposal only looks to remove the WDDSEC discount. As a stand alone proposal were this to be implemented EDF Energy believes that those Shippers who currently book zero priced WDDSEC capacity will instead purchase capacity through the Day Ahead Daily System Entry Capacity (DADSEC) auction which would be more heavily discounted than the WDDSEC capacity, or purchase interruptible capacity. We do not believe that this will aid NGG NTS in planning and operating of the system. We therefore believe that this proposal is neutral to this relevant objective.

Standard Special Condition A11.1 (c): so far as is consistent with sub-paragraphs (a) and (b), the efficient discharge of the licensee's obligations under this licence;

EDF Energy notes that from discussions on the entry charging regime NGG NTS (Transco at the time) implemented a zero priced within day auction to facilitate their Licence Condition that requires them to hold a clearing auction for all remaining unsold capacity. This Licence Condition remains in effect today, and so we would question how removing the WDDSEC discount would be consistent with this Licence Condition, when introducing the discounts in the first place was driven by the same Licence Condition?

EDF Energy does not believe that this proposal will be consistent with NGG NTS' Licence Condition, and so implementation of this proposal will be detrimental to NGG NTS' Licence requirement to hold a clearing auction to release unsold entry capacity.

EDF Energy also disagrees with NGG NTS that this proposal will facilitate SSC A 5.5. In particular we would note that the introduction of entry capacity substitution, transfer and trades, and the perceived threat of baseline re-setting in future years has placed a significant risk on short term capacity as there is no guarantee that the capacity will be available. We therefore do not believe that it is consistent to apply the same reserve price to both long term and WDDSEC capacity, when there are significant risks associated with the later product.

We also note that NGG NTS argue that this proposal will facilitate A 5.5 as it will increase the TO revenue NGG NTS recovers from entry capacity charges. EDF Energy would note that this depends on how Shippers respond to implementation of this proposal. If Shippers opt from purchasing WDDSEC to discounted DADSEC then the impact on TO revenue will be marginal, and not outweigh any of the issues EDF Energy has identified above. If Shippers either maintain their purchases of WDDSEC or purchase interruptible capacity then this will have no impact on the TO revenue. In particular we would note that WDDSEC and DISEC revenue is treated as SO revenue and redistributed by the capacity neutrality arrangements under the UNC. To have any impact on TO revenue NGG NTS would require a Licence Change, and need to amend the UNC to ensure that

these revenues were not redistributed by the capacity neutrality smear. None of these are within the scope of the proposal.

EDF Energy therefore believes that implementation of this proposal will not facilitate any of the Licence Conditions as identified by NGG NTS as these are contingent on other proposals that have not been raised. Instead it is clear that this proposal is inconsistent with NGG NTS' Licence requirement to hold a clearing auction and seeks to place a value on short term capacity that fails to reflect the risks associated with such capacity. This is therefore detrimental to NGG NTS' Licence Conditions and so implementation would have a negative impact on this objective.

Standard Special Condition A11.1 (d): so far as is consistent with sub-paragraphs (a) to (c) the securing of effective competition: (i) between relevant Shippers ...;

EDF Energy would note that this proposal will result in the redistribution of revenues from those Shippers who purchase WDDSEC capacity to those Shippers who purchase longer term capacity. Unsurprisingly therefore this proposal has been supported by those Shippers who will benefit on the grounds that it is "beneficial to competition". However EDF Energy would note that the redistribution of monies is not necessarily beneficial to competition, particularly if the redistribution occurs from smaller participants to larger "incumbent" Shippers.

EDF Energy is concerned that no analysis has been undertaken on the classes of Shippers that access the "shorter term" entry capacity products and the impact that this proposal may have on these Shippers. In particular we would note that there are numerous Shippers who book entry capacity, including larger "incumbent" producers; small producers who develop niche and declining offshore fields that are unattractive to the "major producers"; traders who contract for physical delivery; and "suppliers" who can arbitrage between markets for the delivery of their gas – such as LNG importers. No analysis has been undertaken as to whether any of these classes of Shipper are more reliant on any particular class of entry capacity. We are therefore concerned that implementation of this proposal could favour certain classes of Shipper over another. This could have a detrimental impact on competition if smaller suppliers are disadvantaged compared to the larger producers.

EDF Energy therefore believes that implementation of this proposal will not facilitate this relevant objective, and may in fact have a detrimental impact on competition.

4. The implications of implementing the Modification Proposal on security of supply, operation of the Total System and industry fragmentation

EDF Energy disagrees that implementation of this proposal would benefit the operation of the system by improving the attractiveness of GB for gas supplies through increased regulatory and charging certainty.

Firstly we would note that no analysis has been undertaken on whether certain producers are more reliant on shorter term entry capacity than others. In particular we would note that if implementation of this proposal were to make declining fields less economical then there is a risk that this proposal could force the early closure of these fields. This would have a detrimental impact

on the UK's security of supply position by increasing its import reliance. This would apply equally to marginal supplies which can be diverted to alternative markets, who may now find the UK an unattractive market.

Secondly this proposal fails to take into account developments within Europe and consistency with the EU 3rd Package. Whilst at this stage it is not certain where European developments will go, EDF Energy believes that it is likely developments in Europe will require these proposals to be rescinded in the near future. EDF Energy does not believe that raising proposals every year provides regulatory certainty. We would note that in many public forms Gassco has noted that it is regulatory uncertainty that is making the UK an unattractive market for investments for new gas supplies. EDF Energy therefore believes that implementation of this proposal will add to the regulatory uncertainty as developments in Europe will need to be accommodated and so this proposal will threaten the UK's security of supply position.

8. The implications of implementing the Modification Proposal for Users, including administrative and operational costs and level of contractual risk

EDF Energy would note that offshore investments are long term investments and so the contracts associated with these are also long term. These contracts and investments are likely to have been developed based on the current charging and access regime, and so will not incorporate the potential changes that could be incorporated by these proposals. Implementation of this proposal could therefore introduce significant contractual risk for Shippers whose contracts would not support these changes.

9. The implications of implementing the Modification Proposal for Terminal Operators, Consumers, Connected System Operators, Suppliers, producers and, any Non Code Party.

Implementation of this proposal is likely to have a significant impact on producers who are operating declining fields. The economics around these fields are marginal, and implementation of this proposal could make these fields uneconomic.

11. Analysis of any advantages or disadvantages of implementation of the Modification Proposal

Disadvantages

- This is a contingent proposal requiring changes to the charging methodology, NGG NTS' Licence and additional UNC proposals.
- Fails to take into account developments in Europe and consequences of the EU 3rd Package. It is therefore likely that these proposals will have to be rescinded and further modifications raised to address this in the near future.
- Inconsistent with Ofgem's European role were they are discouraging the booking of longer term entry capacity.
- No supporting analysis to identify the impact on different classes of Shippers and so the impact on competition and security of supply.
- Would have a detrimental impact on market liquidity if traders taking a physical position are discouraged from entering the market.

- Fails to ensure that the charging for different capacity products reflects the risks associated with these products.
- Has not been subject to sufficient industry discussion and debate as requested by Shippers at the entry charging review group.

13. The extent to which implementation is required to enable each Transporter to facilitate compliance with safety or other legislation.

EDF Energy believes that implementation is likely to be inconsistent with legislation that is currently being developed in Europe. EDF Energy therefore believes that implementation now would risk placing NGG NTS in breach of European legislation, directives and regulations in the near future.

I hope you find these comments useful, however please contact my colleague Stefan Leedham (Stefan.leedham@edfenergy.com, 020 3126 2312) if you wish to discuss this response further.

Yours sincerely

A handwritten signature in blue ink, appearing to read "Seb Eyre".

Dr. Sebastian Eyre
Energy Regulation, Energy Branch