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Your Reference: Modification Proposal 0341

Dear Bob,

Thank for your invitation seeking representations with respect to the above Modification Proposal.

National Grid Gas Distribution (NGD) sympathises with the desire to address the consequences described by the Proposer in relation to their experiences of the current UNC provisions and we appreciate the thoroughness of development work undertaken. However, we are unable to endorse the proposal as an appropriate way forward.

Decision Process:

Entry Capacity, and the daily and periodic processes associated with acquisition and trading, is not an area of the UNC which Distribution Networks Operators ("DNOs") are particularly involved. However, the process proposed requires all UNCC members, including DNO to play an active role in the judgement of acts and omissions by shippers in these activities and the provide views on the best way of commercially unwinding of actions. We also note that an appeal process has been tabled, for use where procedural deficiencies were identified in the initial appeal process.

NGD remains to be convinced that the UNCC is the appropriate forum for consideration of these overruns. While individual UNCC members have good all round knowledge of the UNC, NGD feels uncomfortable being involved in decision making on a very narrow, specialist section of the UNC where the decision may not materially affect us but could subsequently be the subject of regulatory and legal challenge. We feel that judgement on these matters should be done by expert users and parties that are materially affected, in the same way as energy balancing credit decisions are judged by a peer group. Alternatively, the decision could have been given to an independent (panel of) expert(s).

Retrospection:

As a general principle, NGD would be opposed to a modification proposal that took effect retrospectively. While action taken after the event should not be entirely ruled out, retrospective action should be a rare event. As guidance, we would look to the Authority's view which can be found in the decision letters to Modification Proposals 117: "Amendment to Invoice Billing Period" and 122: "Restriction of Invoice Billing Period to Price Control" and we would look to these principles should a proposal contain a retrospective element. We are not convinced that the principles set-out in the decision letters would support the retrospective application of this proposal.

Requirement:

While not a strictly speaking a feature of the proposal, we would also like to comment on the fact that a commercial regime exists in the UNC that allows a shipper to find themselves in this position. While it is wholly appropriate that shippers should contract for, and commit to, long run services such as capacity, it is inappropriate that unauthorised use of evidently available capacity should trigger such premium charges. Appropriate incentive charges and contractual remedies should ensure that parties behave appropriately, but we question whether or not those charges should continue to be levied once the incentive setting phase has passed. At the very least a capping mechanism should be considered and possibly additional procedural safeguards put in place to ensure inappropriately high charges are not levied where those premium system use charges cannot be linked to costs or losses incurred by networks or users.

Relevant Objectives:

NGD does not agree with the Proposer's views in relation to the better facilitation of the relevant objectives. We believe that post event judgements of this nature do not serve to promote competition and the mechanism proposed to unwind the charges is complex and with the decision has been tasked to an inappropriate industry body. Consequently we don't accept that the efficient administration of the UNC would be improved by implementation.

To summarise, we believe that there is a problem regarding the generation of large invoices by acts of omission, but efforts in this area would be better targeted on ensuring that these charges are capped or procedures and warnings developed to ensure they do not materialise

Please contact me on 01926 653559 (alan.raper@uk.ngrid.com) should you require any further information.

Yours sincerely,

Alan Raper

Network Code Manager, Distribution.