

OFGEM DECISION LETTER No. 0522
"Deferral of Maintenance Information Publication Obligation"
Version 1.0

Direct Dial: 0207-901-7437

31 January 2002

Transco, Shippers and Other Interested Parties

Dear Colleague,

Modification Proposal 0522: Deferral of Maintenance Information Publication Obligation

Ofgem has considered the issues raised in Modification Proposal 0522 '*Deferral of Maintenance Information Publication Obligation*'. Ofgem has decided to direct Transco not to implement the modification because we believe that this proposal will not better facilitate the relevant objectives of Transco's Network Code.

In this letter, we explain the background to the modification proposal and give the reasons for making our decision.

Background to the proposal

Transco's Maintenance Programme under the Network Code

Currently, under section L of the Network Code, Transco is required to prepare and publish a Maintenance Programme outlining planned maintenance of the National Transmission System (NTS). The Maintenance Programme identifies the duration and expected impact of planned maintenance on the ability of Transco to accept delivery of gas or to make gas available for offtake.

Transco is required each year to prepare and publish a Maintenance Programme for the planning period commencing 1 April ('the April Maintenance Programme') and an updated Maintenance Programme for the planning period commencing 1 October ('the October Maintenance Programme').

Users are required to provide information to Transco, including estimates of their expected gas deliveries and offtakes and the extent to which they would be able to vary expected deliveries by delivering quantities to other System Entry Points.

In relation to the April Maintenance Programme:

- Users are required to provide information to Transco by 30 November;
- Transco is required to publish a draft of the Maintenance Programme by 1 February;
- Transco is required to hold an Annual Maintenance Meeting by 1 March, in order to allow industry participants to comment on the contents of the draft Maintenance Programme; and
- Transco is required to publish the Maintenance Programme by 1 April.

The relevant dates for the October Maintenance Programme are 30 June for Users to provide information, 1 September for the draft Maintenance Programme, 15 September for Users to submit comments on the draft Maintenance Programme and 1 October for publishing the Maintenance Programme.

Transco's April and October Maintenance Programmes cover planning periods of 24 months from 1 April and 1 October respectively.

The April Maintenance Programme contains firm maintenance periods and details for the first 7 months of the planning period, provisional maintenance periods for the following 5 (or 6 months, as the case may be) and outline maintenance periods and details for the last 12 months of that period.

The October Maintenance Programme contains firm maintenance periods and details for the first 6 months of the planning period, provisional maintenance periods for the following 5 months (or 6 months, as the case may be) and outline maintenance periods and details for the last 12 months of that period.

Under the provisions of paragraph 3.2.5 of section L, Transco is not required, by virtue of anything contained in a Maintenance Programme, to carry out any particular maintenance works. Further, Transco is not required to carry out the maintenance works at any particular time. It is noted, however, that Transco's discretion to carry out maintenance works at any particular time is expressed to be without prejudice to paragraph 1.3.2 of section L. This paragraph provides that a maintenance programme will not provide for maintenance of the NTS other than in the months of April to October inclusive in any year.

Currently, Transco undertakes the majority of its maintenance programme during the summer period of the gas year. This is primarily due to significantly lower gas flows through the NTS during this period.

Auctions of entry capacity rights

Transco currently offers firm entry capacity rights for sale via six-monthly auctions. It held the first auction of firm monthly system entry capacity (MSEC) in September 1999 and has subsequently held four further auctions of MSEC, with the most recent completed in September 2001. Following Ofgem's acceptance of Modification Proposal 0505 '*Delay to January 2002 MSEC Allocation*', the next entry capacity auction is due to be completed by 28 February 2002. Following Ofgem's acceptance of Modification Proposal 0499 '*Transition Arrangements for Long Term Capacity Allocation*' today, the start date for the next auctions is currently scheduled for 15 February 2002.

Ofgem's proposals for Transco's System Operator incentives

Ofgem published its final proposals for Transco's NTS System Operator (SO) incentives for 2002-7 in December 2001. 'Transco's National Transmission System Operator Incentives – Final Proposals', Ofgem, December 2001. These proposals significantly improve the long-term signals and the incentives for timely investment in Transco's NTS and improve Transco's incentives to efficiently operate the NTS.

Under Ofgem's final SO proposals, Transco will be required to offer for sale baseline capacity volumes in the form of firm, tradeable entry capacity rights through a series of long and short-term auctions. Transco will be able to earn incentive revenue from investing above its baseline capacity measures, in response to signals emerging from long-term auctions.

Under Ofgem's final proposals, Transco will also be provided with incentives to efficiently manage the costs of buying back capacity it that it has sold but cannot make physically available. In these circumstances, buy-backs may be necessary, as Transco has decided to defer investment under its entry capacity investment incentive or where available capacity has been reduced due to

maintenance or as a result of seasonal variations in network capacity or plant failures. Transco would face a target level of buy-back costs, which has been determined taking into account the forecast cost of buy-backs for maintenance, seasonal or plant reliability reasons. Where actual buy-back costs exceed the target level, Transco will be exposed to a share of the additional costs (determined by a sharing factor) up to a maximum level (a collar). Conversely, if the buy-back costs were lower than the target, Transco would be allowed to retain a share of the benefit (determined by a sharing factor) up to a maximum level (a cap).

Ofgem notes that Transco has today accepted in principle Ofgem's proposals with respect to the capacity buy-back regime.

In order to minimise Transco's spot exposure to buy-back costs, Ofgem has proposed that Transco should have greater freedom in buying back capacity, including, for example, the ability to forward contract and to enter into option contracts with individual market participants. Ofgem considers that this would prevent Transco always approaching the buy-back market as a distressed purchaser. As a necessary consequence of this increased level of contracting freedom, Ofgem has also proposed that Transco be required to produce Procurement Guidelines and Balancing Principles Statements, in order to ensure transparency. The Procurement Guidelines will set out the types of services for which Transco might contract and the Balancing Principles Statement will outline the high level principles the SO will adopt in balancing the system and managing constraints.

Information disclosure

As part of its final SO proposals Ofgem has also proposed modifications to Transco's Gas Transporter's licence to facilitate the disclosure of information relating to the operation of Transco's pipeline system. Ofgem considers that the disclosure of information relating to the operation of the NTS should increase the efficiency of the wholesale market. Further, it will help to address existing asymmetries in access to operational information which may be contributing to increased system balancing costs and volatility in wholesale prices.

In its SO final proposals document, Ofgem consulted on a draft licence modification relating to information disclosure. Responses to this consultation are due today.

The Modification proposal

This modification proposal was submitted to Ofgem for urgent status on 14 January 2002. Ofgem granted urgent status on 15 January on the basis of the short period of time remaining prior to the scheduled maintenance programme publication date of 31 January 2002.

The modification proposal seeks to defer Transco's Network Code obligation to publish information relating to its April Maintenance Programme. Under the proposal, the publication of the draft Maintenance Programme will be deferred from 1 February to 31 March 2002. The Annual Maintenance Meeting would be delayed from 1 March to 30 April 2002 and the Maintenance Programme would be published on 1 May 2002, a delay of one month. The October Maintenance Programme is unaffected by this proposal.

Respondents' views

The majority of respondents supported the modification proposal.

Several respondents argued that publication of the April Maintenance Programme should be delayed because the SO incentive proposals were not yet agreed. One respondent said that it would not make sense for Transco to make firm maintenance arrangements when their incentives

to build capacity are still unclear. This respondent also argued that a delay would ensure that Users did not take any speculative views in the MSEC auctions that could skew capacity prices for the summer months.

One respondent argued that publication of the Maintenance Plan prior to Transco's agreement to the SO proposals could potentially create misleading information and distortionary signals that would adversely impact upon the upcoming auction. Another respondent indicated that it would be prudent for Transco to delay publication of the maintenance programme until the Balancing Principles Statement is agreed and until option and forwards contracts are available to Transco to manage constraint risk. This respondent offered support for the proposal on the basis that the delay was temporary and did not make a permanent change to Section L of the Network Code. This respondent's initial view was that changing Section L could set a dangerous precedent, set against the Information Exchange Programme being developed in the RGTA Workstream.

Some respondents considered that a delay is appropriate to allow Transco to take decisions regarding maintenance in light of market signals it receives from the MSEC auction. However, one of these respondents went on to express concern about the effects of the delay on customer maintenance at exit points. This respondent drew attention to those large users that provided information to Transco about their maintenance plans, expressing a preference for maintenance to be carried out in April 2002. This respondent said that if the proposal was accepted, these maintenance windows would not be met.

A number of respondents opposed the modification proposal.

One such respondent argued that delaying the publication of the maintenance plan was not appropriate at this time, but suggested that it may be appropriate once the long-term allocation method is established. This respondent argued that it was likely that Transco has already planned and, in some cases, completed tenders for summer maintenance. It expressed concern that some information regarding 2002 investment projects may already be in the public domain (in the 10 year statement, for example) and that incomplete information will not lead to efficient outcomes in the auction. It argued that there was the possibility of there being 'patchy' information in the market to the advantage of some participants.

Another respondent opposed to the proposal also argued that some Users would be aware of elements of the maintenance programme through their upstream affiliates, which would place them at an advantage over other Users. Further, this respondent did not accept that the Maintenance Programme is solely driven by capacity prices and said that the scheduling of maintenance must involve other parties such as Terminal Operators and customers in order to minimise the impact on the network in advance.

This respondent added that delaying publication will increase uncertainty and cause Users to include a premium in their bidding in the MSEC auction, to allow for this uncertainty across the whole period. It argued that price signals arising from the auction process should reflect the value of the capacity product, and that this value must reflect the potential for maintenance or other known constraints. Accordingly, this respondent indicated that the maintenance plan should be published prior to the summer auctions.

This respondent also argued that Transco has all the relevant information at its disposal to anticipate the effect of its Maintenance Programme on capacity prices and could manage the scheduling of its Maintenance Programme at the optimum time for all parties. This respondent argued that the proposal would pass all of the costs of managing Transco's risk to Users.

Another shipper opposed to the proposal argued that the Maintenance Programme is a factor in determining shippers' MSEC acquisition strategies and that the Programme should be published

no later than the invitation to purchase MSEC. It argued that there should be a core programme, which would occur under almost any circumstances and another discretionary programme, which might depend on the final SO incentive framework. This respondent further suggested that Transco should include an assessment of the impact of major works on the ability of terminals to flow gas.

Transco's view

In raising this modification Transco indicated that the Maintenance Plan should not be finalised until market signals about the value that is placed on capacity have been revealed and to ensure that information released to the market concerning the maintenance plan is not potentially misleading. Transco argued that releasing the Maintenance Programme after the next series of MSEC auctions would further the economic and efficient operation of the system by potentially reducing shippers' and Transco's exposure to buy-back costs.

Transco indicated that it recognised respondents' concerns that asymmetric information may distort the market. However, it noted that some provisional information about the Summer Maintenance Programme was published on their Web site on 29 June 2001 and it did not believe that it is appropriate to have obligations to put any further information about the Maintenance Programme into either the User or public domains at this stage. It recognised that the publication of Maintenance Programme information raised complicated issues about information release and its interaction with incentives and that this will need to be considered within a consultation about a subsequent Network Code Modification Proposal.

Ofgem's view

Ofgem does not believe that publishing a draft of the Maintenance Programme before the auction of entry capacity should distort bidding behaviour in the auction. Instead, Ofgem considers that the publication of draft maintenance information will assist shippers in efficiently valuing capacity in monthly auctions. In particular, the publication of this information will assist shippers in determining the level of capacity that Transco can make physically available across the summer months which will in turn impact upon the value that individual shippers attach to capacity rights offered in the auctions. The information that Transco receives from the auctions and the values that shippers place on capacity during the periods of maintenance should assist Transco in determining whether or not to adjust its maintenance programme to minimise the costs associated with capacity buy-backs.

In addition, Ofgem does not accept the arguments put forward that the publication of the maintenance programme will place Transco in a distressed buyer position thereby increasing Transco's exposure to buy-back costs. In particular, Ofgem considers that Transco will be able to effectively manage its exposure to capacity buy-backs through its buy-back incentive. Further, Transco is not bound to adhere to the draft Maintenance Programme to be published by 1 February 2002. As such, Transco will have the ability and discretion under the existing provisions of the Network Code to adjust its Maintenance Programme on the basis of the valuations of capacity established through the auctions and any capacity buy-back tenders it undertakes and in response to its capacity buy-back incentives.

Ofgem is therefore not convinced that the proposal would better facilitate the relevant objectives of the Network Code. In particular, Ofgem believes that the proposal, in delaying the release of information about Transco's Maintenance Programme, may reduce the ability of shippers participating in the forthcoming entry capacity auction to effectively determine the value of capacity. Ofgem does not believe, therefore, that this proposal would secure effective competition between relevant shippers.

Ofgem's decision

Ofgem considers that a delay in the publication of the draft maintenance programme will reduce the level of information available to shippers prior to the auctions and may lead to distortions in bidding behaviour. Ofgem does not therefore believe that this proposal would better facilitate the securing of effective competition between relevant shippers and suppliers.

Accordingly, Ofgem had decided not to consent to this modification, because we do not believe that it will better facilitate the achievement of the relevant objectives as outlined in Standard Condition 9 of Transco's GT Licence.

If you have any queries in relation to the issues raised in this letter, please feel free to contact me on the above number.

Yours sincerely,

Mark Feather
Head of New Gas Trading Arrangements