

**MINUTES
SUPPLIER OF LAST RESORT
REVIEW GROUP**

Venue: Transco, Buckingham Gate Office
Date: 24 May 2002

Attendees:	<u>Shippers:</u>	<u>Transco:</u>
	Gavin Ferguson (British Gas Trading)	Julian Majdanski (Chair)
	Charles Ruffell (Innogy)	Linda Whitcroft
		Michelle Wilson
		Jane Cooper
		John Burke

Ofgem:
James Richardson
Roger Morgan

Apologies: Katherine Befroy (Scottish & Southern Energy)
Brian Horton (TotalFinaElf)
Jane Butterfield (PowerGen)
Alison Pettifer (Centrica)
Gary Russell (Quantum/ V-is-on)

1) Actions from Previous Meeting (11.04.02)

Insolvency Modification

Action - Transco to develop an appropriate Modification proposal to ensure that all amounts due become payable in the event of insolvency.

Update 24/05/02

Transco advised that a Modification proposal is being prepared

Insolvency Security

Action - Transco to consider whether it is appropriate to amend Energy Balancing and Transportation securities to include "Insolvency" as an Event of Default.

Update 24/05/02

Transco advised that the security documentation is in development with their Legal department and that a Modification is being proposed to incorporate this into the contract.

Portfolio Registration

Action - Transco to investigate the process for submitting a read to the GT prior to Portfolio registration.

Update 24/05/02

*Transco tabled an explanation of the Invoicing 'Line in the Sand' functionality.
Suppliers comments/issues to be forwarded to Julian Majdanski.*

Details of Portfolio Transfer

Update 24/05/02

Decision is required from Ofgem on how supply points are to be confirmed

Testing of Process

Update 24/05/02

Ofgem advised that testing is planned to take place between 23/09/02 and 25/09/02 and will cover the period from Supplier failure to the appointment of an SOLR. Expert groups will be convened on 20/06, 04/07 and 02/08 to identify the parameters for testing.

The process will also incorporate Electricity (Generator failure) and will determine the roles of both Transco and Elexon.

Transco may provide a dummy portfolio and be available to take calls from the Suppliers during the Testing.

Transco also advised that its Insolvency Practitioners would be willing to take part regarding insolvency issues.

Action - Ofgem to confirm if the appointment of a provisional liquidator is within its powers.

Update 24/05/02

Ofgem are not empowered to appoint a provisional liquidator. This decision is made by the Court who may at any time after the presentation of a winding up petition appoint a liquidator provisionally.

Action – Ofgem to advise prior to the credit consultation closure date, if expiry of an unpaid statutory demand is sufficient proof of insolvency for the purposes of revocation

Update 24/05/02

Ofgem stated that in circumstances where the statutory demand was properly served and unchallenged, it may be sufficient proof of revocation but would be dependent on the circumstances.

Transco's issue was that if this was not the case the ultimate problem would be the gap creating additional exposure up to the completion of the Winding Up order.

Suppliers Undertakings

Update 24/05/02

Transco advised that currently only 7 Suppliers had returned Condition 22b Undertakings. Ofgem agreed to write to Suppliers re non-compliance with Licence Conditions.

Transco also raised the issue of Supplier insolvency and the requirement for a process to establish the appropriate method of obtaining information as to when this had occurred.

New Modifications

524- Supplier responsibilities in the event of the appointment of a Supplier of Last Resort

Action Transco to redraft legal text (JM)

Update 24/05/02

Ofgem are likely to reject the proposal. Although Ofgem support the principle, they are uncomfortable with the legal text adaption as it only refers to the transfer of liability and does not clarify Transco's role or the process to be adopted.

The Group recommended that the proposer should split the current modification into two separate modifications for easier understanding but to launch both together at the next Panel Group.

The Group expressed concern that the Shipping Community may be at further risk because of the extended period of submitting new modification requests.

Further Update – Ofgem rejected Modification 6 June 2002

525-Termination of User who seeks or becomes subject to the appointment of an Administrator

Update 24/05/02

JM forwarded a letter to Lisa Hughes at Ofgem confirming that the EBCC were in agreement regarding the implementation of the modification.

Ofgem would be reviewing the modification the week commencing 27/05/02.

Further Update

Modification approved by Ofgem and was implemented on 7th June 2002.

Other Modifications

SOLR – Provision of Security within 14 days of appointment

Under consideration by Transco as either a new modification proposal or an amendment to the Code Credit Rules.

Application of sanctions to a Shipper in instances other than breach of 85% credit utilisation

Currently, the only option is to terminate. Alternative sanctions need to be considered.

Ability to realise security in the event that an 85% notice has not been satisfied (Transportation and Energy)

Modification and Gameplan have been drafted.

Reduction in 30 day notice period when credit rating moves downwards between bands.

Under consideration to enforce the right for immediate reduction of credit limit on downgrade of prospective Shipper.

Utilisation of the lowest published credit rating in credit limit assessment

Where there is a difference in the rating given to a Shipper by two rating agencies, Transco propose to specify that the lowest rating is to be used.

Sanctions for interim steps prior to Termination

Shipper feedback has been processed into the response to the Credit Consultation document

CSEPS/iGT Failures

There is a concern that in the event of a Shipper/Supplier failure that is contracted to an iGT, Transco has no contractual remedies or access to all necessary information. There are also concerns regarding the apportionment of financial responsibility in the event of an iPGT failure.

The review group were asked to consider associated risks and to develop potential solutions. Remedies put forward included back to back agreements with the iGTs and inclusion of recovery scenarios in Condition 22b. Ofgem agreed that they would consider the next course of action necessary to resolve CSEPS/iGT issues.

Action – Ofgem to consider next course of action in relation to CSEPS/IGT issues

Update 24/05/02

Ofgem are still considering the next course of action and have requested that Transco identify and document the issues and forward for a formal response.

Update on Ofgem Consultation Document

Ofgem advised that 40 responses had been received and published on their website. Whilst there is no plan to hold an open forum, Ofgem plans to publish a proposals document towards the end of July and furthermore expressed that they would be happy to meet with the respondents for discussion. Ofgem further stated that they would be unlikely to enforce the proposals stipulated in the document.

AOB

There was a concern raised that Shippers were not supportive of the SOLR meeting due to the lack of representatives attending. To improve the situation it was proposed that the Terms of Reference should be recirculated.

IEU Creditors Meeting

The meeting was updated regarding the events that followed the appointment of the Receiver and the action by shareholders in the USA.

-Ofgem had advised the Receiver to guarantee the supply to end Users otherwise an SOLR would be appointed. However as the debts were £5m per day the Receiver was unable to take on the obligations and as a result looked for alternative method of recovery to carry on the business.

-Shareholders in the USA were pursuing action against the directors of IEU over the fraudulent creation of a false market. The liquidators will continue to investigate.

-The creditors were also advised that it was unlikely there would be a final dividend.

Enron Creditors Meeting

Total claims amounted to £600m. The group agreed to continue with legal action although it is highly unlikely that there would be any return

NEXT MEETING

This will be arranged after the scheduled meeting of the expert group on 20 June 2002.