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Julian Majdanski  
UNC Modification Panel Secretary  
Joint Office of Gas Transporters  
Ground Floor Red  
51 Homer Road  
Solihull  
B91 3QJ

Dear Julian

**Urgent Modification Proposal 0036: Limitation of incremental capacity offered in QSEC Auctions**

Thank you for providing Scottish and Southern Energy plc with the opportunity to comment on the above urgent modification proposal.

SSE is extremely surprised a) that this proposal has been raised at all and b) that it has been afforded urgent status, with less than a week for respondents to comment on the issues. In our opinion this is an abuse of the governance process.

- We note Transco NTS's justification for urgent status is on the basis that the proposed revisions need to be in place and effective prior to the invitation being issued for the next long-term auctions which are currently scheduled to take place in September 2005. In addition Transco states that without these provisions in place there could be an adverse commercial impact on Transco NTS and Users as a result of potentially high buy back costs at Aggregate System Entry Points (ASEPs).
- SSE challenges this assertion. In the limited time we have had to consider the issues set out in this proposal we believe that the issues of concern to Transco NTS are not matters to be resolved via a UNC modification proposal.
- It would appear that Transco NTS has raised this proposal because it believes that the UNC and the Incremental Entry Capacity Release (IECR) methodology statement are no longer consistent following recent changes to the IECR methodology statement put forward by Transco NTS which were not been vetoed by Ofgem. It is disappointing that we have been unable to see the report on the consultation (to which we responded) and that there seems to be no Ofgem letter to accompany its decision not to veto the amendments. We therefore have no indication of Transco NTS's views on the points we raised in our response which might have helped inform our opinion on this proposal.
- SSE's understanding is that the purpose of the IECR methodology statement is to set out how Transco NTS determines any incremental volumes of capacity to be released following the long-term auctions. Indeed Section B.4 states "The

primary purpose of this methodology for determining incremental entry capacity volumes is to indicate the way in which Transco NTS will interpret the results of long term entry capacity auctions in terms of whether or not to seek to allocate obligated incremental capacity rights to Users.”

- The IECR methodology is therefore different to the provisions set out in the UNC TPD Section B which describe how Transco NTS is to offer capacity for sale in the long-term auctions. The UNC **does not** prescribe how Transco NTS then decides how to release any incremental capacity above the baseline volume. We therefore do not understand why Transco NTS is so concerned about being required to **offer for sale** 150% of NTS SO Baseline Entry Capacity in the QSEC auctions. We do not agree that there is inconsistency between the UNC and the IECR statement (as amended).
- In its response to the recent IECR methodology statement consultation, SSE explained its view that the changes were not appropriate because the whole licence and incentive regime framework for the NTS entry capacity regime is predicated on the fact that Transco argued that a three year lead time was required for it to invest in physical assets. Notwithstanding this it is up to Transco NTS to determine whether or not to invest in a physical asset to underpin a financially firm right by way of any incremental capacity (above baseline) allocated to shippers as a result of the auctions. As the capacity release takes place after the auctions, Transco NTS's incentive is designed to encourage it to assess whether or not to release the capacity. Such assessment is based on the balance of the reward of building a physical asset vs the buy back risk. The provisions of Section C2.3 (e) of the IECR methodology statement appear therefore to be pre-empting the outcome of the auctions themselves by restricting the volume of capacity that is to be offered for sale in the first place. We do concede that further consideration might need to be given to the three year lead time because in some circumstances there can be a requirement for a longer timescale to build a physical asset. However if Transco has an issue with this timing it is for consideration at the next price control. We see no reason why the UNC needs to be amended to reflect these changes as the UNC is about offering entry capacity for sale, not the decision to release incremental capacity nor the allocation methodology. If Transco considers that the risk associated with releasing the capacity is too great then it doesn't have to release it. If Transco considers that the methodology used in the IECR to determine how much incremental capacity to allocate is no longer appropriate then Transco is free to raise further amendments to the IECR. It seems to us that Transco is seeking to change the purpose of the IECR methodology statement so that it is now also determining the volumes of capacity to be released in the auctions themselves. We are not clear that this is consistent with our understanding of the licence obligations.
- With regard to the ability of Transco NTS to physically deliver the capacity within the three year timescale again we would note that this changes the whole basis of the incentive framework that was agreed at the time of the last price control review. We therefore query whether this it is appropriate for this change to be pursued under the UNC governance arrangements. Whilst re-opening the three year timescale is clearly a matter for the next price control, it seems to us that it is the timing of the auctions themselves that is causing the problem. We don't understand why Transco didn't consider bringing forward the date of the auctions to earlier in the year than September. After all, it was Transco that suggested this timing at the time that the regime was being developed. This would be a more

appropriate approach rather than trying to alter the volumes of capacity that are offered for sale.

**Comments on the legal drafting**

- Reference should be to “Principal” Document.
- It is not clear to us in the legal drafting proposed for 2.2.3(c)(i) which provisions of the IECR would apply. In the event that Ofgem directs implementation of this proposal this clause needs to be far more specific and make explicit reference to the IECR.
- We are also unclear how this amendment would apply to new ASEPs and would welcome further explanation given that they do not have a baseline.

In summary, SSE is firmly opposed to the implementation of any aspect of this proposal. In our view, if the proposal was implemented it would represent a substantial change to current arrangements which merits more consideration than the few days we have been afforded. Implementation would also totally undermine the rationale of the SO incentive which was set at the last price control review and upon which shippers have based their commercial strategies

I hope that our comments have been helpful. Please do not hesitate to contact me in the first instance if you wish to discuss any of the points raised in our response.

Yours sincerely

Katherine Marshall  
Market Development