



**Comments in respect of
Modification 0035: Revision to Section Q to Facilitate the Revised NEC
Safety Case**

14 September 2005

The Association of Electricity Producers welcomes the opportunity to comment on this draft modification report. The Association is unable to support this proposal. This is because the recent revisions to the safety case were implemented without any consultation with the industry. We understand that there is no requirement for industry consultation, but that the views of external parties may be sought. However given the complexity of industry contracts and structures we do not believe that in the absence of full industry consultation all relevant issues and consequences were adequately considered. Whilst we understand that non-implementation of this modification will not actually affect the physical response provided in any emergency situation, if it were to be implemented this would give undue legitimacy to the safety case change, and it is not clear that this proposal better facilitates the relevant objectives.

It is our understanding that the recent changes to the safety case are consequential to the removal of top-up from the Network Code in 2004, but at the time of the implementation of that proposal safety case changes were made that were considered adequate but now are no longer considered sufficient. The draft modification reports that legal advice identified that it would not be acceptable for the NEC to allow an increase in the risk of an actual Network Gas Supply Emergency (NGSE) by allowing gas to flow from the affected storage facility whilst emergency interruption was called. We do not dispute this legal view, but consider there are other ways of ensuring that the NEC does not find itself in a situation where the risk of a NGSE increases. This could include pre-emergency steps such as providing the market with additional (near to realtime) information on storage levels and projected end of day storage levels if the prevailing storage nominations persist, this should facilitate a market response. Alternatively the NEC could simply call stage 1 and stage 2 simultaneously, indeed it is unclear as to why if the NEC had such significant concerns over the possibility of monitor levels being breached that it would delay market suspension at stage 2 (since if the market has allowed the monitor level to be so close to being breached that an emergency has been declared, then the market is clearly unable to respond any further and should be suspended) and allow time for the emergency interruption at stage 1 to be called and for a response to be seen. This should also be considered in a scenario where the emergency curtailment volume (ECV) element of modification proposal 0044 is implemented. If at the time emergency interruption is called these sites are being supplied by gas from storage then

shippers will still be expected to supply the gas associated with these sites and the storage withdrawal nominations will be unaffected. This further supports the argument for calling stage 1 and stage 2 simultaneously in the case of a potential NGSE monitor breach as calling stage 1 first is unlikely to preserve storage stocks.

The Association considers that in general the market should be allowed to function to manage the supply / demand balance free from intervention by transporters and that command and control mechanisms are incompatible with freely functioning markets. We can see no case for any elements of command and control operating alongside the OCM. In our view this would fundamentally undermine the commercial contract struck between shippers and storage operators and could have all or any of the impacts identified by the Transmission workstream and noted in the draft modification report. These general principles seem to be supported by Ofgem's decision (Mod 13a) to remove interruption rights for supply / demand reasons from Transco and rejection of modification 635 which sought to keep the OCM open during stage 2. The main reason for rejection was the risk of unintended consequences and lack of clear criteria for keeping the OCM open during stage 2. In this context we consider a situation where storage stocks are falling close to monitor levels to be a particular type of supply / demand situation which the market, provided with sufficient timely information, should be able to address without intervention. Clearly when the market can no longer respond to the situation the market is 'broken' and should be suspended by calling stage 2 immediately with command and control of storage and entry flows.

The Association also considers that whilst it is desirable for there to be clarity over the actions the NEC would take in an emergency and for the UNC and safety case to be aligned, this modification is not necessary for a physical response to be provided in the event of an emergency being declared as all parties must comply with emergency instructions issued by the NEC. In this regard we consider that this proposal provides no additional clarity over when the NEC would call stage 1 of a NGSE monitor breach emergency although Transco has reported (page 3, DMR) that stage 2 would be called if monitor levels were actually breached. The proposed legal text Q1.2.3 d suggests that this type of emergency would arise as a result of an *imminent* or actual breach of the safety monitor, whilst the safety case refers to both *potential* and actual breaches at both stage 1 and 2, with stage 2 being declared when the steps taken at stage 1 have been utilised but there remains a potential or actual breach of monitor levels. The words imminent and potential are important here and for there to be any additional clarity these need to be defined more precisely. For example a timescale could be included, such that stage 1 is declared [x] hours before a breach is expected if the current supply / demand situation including storage nominations persist. This would give the industry some understanding of just how severe the situation is, as there could be different perceptions of [x]. The time to an actual monitor breach, say when this is <48 hours, could also form part of the information updated to the industry in real time in the pre-emergency state. Clearly once this information is available to the market it should have the same

effect as the NEC controlling storage withdrawals at stage 1, since any shipper who increased storage withdrawal nominations at an affected facility would have to carefully consider whether it was acting in a manner consistent with its licence.

To summarise, the Association does not consider that this proposal should be implemented as it cannot be clearly demonstrated that the relevant objective will be better served by implementation. Indeed the opposite may be true in so far as the proposal may incentivise shipper and transporter actions that are inconsistent with the efficient and economic operation of the system. This could arise due to the lack of clarity over when the NEC would call stage 1 of a NGSE and operation of command and control of storage alongside the OCM or where shippers are incentivised to withdraw gas from storage earlier in the winter period to prevent their gas in storage being sterilised, which could artificially distort the gas market.