

The Modification Panel Secretary  
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HSE  
Awaiting Address

Thank you for the opportunity to respond to proposed UNC Modification 0035. CSL is opposed to the modification. We do not believe that appropriate process and consultation has been used for the changes to the safety case. We do not believe that this modification warrants such a short consultation period. We do not believe that this modification has received sufficient development or analysis of its impact on the market and resulting incentives. We believe that the proposed changes to the legal text will create conflicts elsewhere in the UNC which have not been prudently considered and comprehensively analysed.

Our reasons are explained below:

### **1. The Modification Proposal**

Before we address the actual modification proposal it is important that a number of issues with the safety case changes are raised so that our response to the actual modification proposal can be interpreted unambiguously and in the correct context.

CSL is very concerned that Transco's Network Emergency Controller has made significant changes to the commercial impact and incentives of the safety case without due consultation and, in our opinion, due consideration. We are very concerned that Transco may be attempting to manipulate its business risks and the Network Code commercial arrangements using a mechanism outside of consulted arrangements. A more practicable, commercial acceptable and supported solution could have been developed by simultaneously reviewing the Safety Case and Network Code in conjunction with the expertise of Shippers, consumers, producers, storage operators and other interested parties.

Our specific concerns regarding the safety case changes are as follows:

1. Where action has been directly taken to constrain storage withdrawals to prevent a monitor breach a decision is being made to override the market's view of the value of remaining storage stocks. The NEC's action in these circumstances constitutes a direct interference with the operation of the market. We disagree that this situation can be described as a "potential emergency" and believe that the market should be suspended to prevent discrimination. If the market is not suspended then Users cooperation with the NEC's instructions may be unduly influenced.

2. Transco have stated that moving the constraint of physical withdrawals to Stage I of an emergency will provide a more immediate response. This claim is tenuous to say the least: the NEC has the ability to call any emergency stage at any time. Use of only stage 1 does not enable or result in a faster physical response than initiation of stage 2 arrangements. We are concerned that the NEC has not considered the use of other mechanisms in the lead up to a storage monitor breach or taking pre-emergency action before the immediate breach described in the new safety case.

3. The previous safety case had provision for constraint of storage withdrawals at Stage two, this was intended to be used when market mechanisms failed to provide appropriate actions and required direct and immediate physical action.

Commercial mechanisms were introduced at stage two to ensure that no affected party was significantly prejudiced. The new safety case constrains storage users at stage 1 (potential emergency), where the market (OCM) is allowed to continue operating, and causes those users to become short of gas. This mechanism introduces new penalties and incentives on Storage users, Storage facility owners and future UK storage investment. We will attempt to explain these incentives more fully later in this response.

4. The modification report for MOD710 (removal of Top Up) states "Transco would reiterate that the conduct of an emergency would not be changed if this proposal were implemented." Transco have now changed the safety case and undermined the basis for consideration and acceptance of MOD710. Transco relieved itself of Top Up cost risk upon introduction of MOD710. This safety case change and proposed modification will result in those risks now being placed upon storage Users.

In conclusion CSL does not believe that the changes to the safety case will provide any appreciable improvements to the physical safety of the gas network and has probably introduced commercial incentives which will lead to a reduction in the safety of the network. The changes constitute an ill conceived "quick fix" and will lead to a reduction in both short term and long term security of supply and ultimately reduce the safety of the gas supply system. CSL urges the HSE and other government organisations to re-address the safety case changes with an appropriate level of analysis, challenge and testing. The mechanism that Transco have used to force these changes must also be reviewed to ensure that Transco is unable to manipulate its commercial risks in this manner.

CSL would also like to point out that the physical actions described by the safety case are implemented using powers granted by the Gas Act. Instructions issued by the NEC must be adhered to regardless of the contents of the Network code. This modification therefore does not change that actions which are taken in an emergency and is not needed for the safe operation of the system.

## **2. Extent to which implementation of the proposed modification would better facilitate the relevant objectives**

CSL believes that this modification will clarify the emergency process but falls short of addressing all of the issues which it creates. CSL does not believe that the purported clarification adds any demonstrable efficiencies (beyond minor streamlining of Transco's internal processes which should not justify such a modification.). CSL does not believe that the changes to the safety case or this modification will result in more economic operation of the system, especially when parties other than the relevant transporter are considered. We note that the proposer has not elaborated or explained these statements in the modification report.

CSL agrees with the comments that these changes will increase incentives on Users to deplete Storage stocks at a greater rate than existing arrangements. Under the proposed regime: when storage stocks approach the monitor levels then Users will compete to withdraw their stocks for sale to generate revenue to fund the cost of balancing once withdrawals are constrained and their gas becomes stranded in store. Under the previous regime the balancing costs would be neutral and such an incentive did not exist. This is a particular problem for Storage types with third party access where no single User can prevent a monitor breach caused by other large users.

This change significantly increases the balancing cost risk of any User of storage, especially smaller players who are unable to significantly influence net stock levels.

Paragraph c) of the modification report does not represent the concern raised at the Transmission Workstream which was: Implementation without consideration of the emergency compensation arrangements in respect to gas which has not flowed creates disparity between "constrained-off" storage Users and "constrained-on" beach deliveries. The code currently allows claims to be made only for gas delivered.

Increased risk of using Storage caused by sterilised gas in store and resultant balancing costs will result in increased investment risk in storage facilities and ultimately lead to increased gas supply costs to end users.

CSL is worried that this modification gives Transco additional command and control abilities which could be wielded whilst the market is still in operation. The proposer has not explained or disclosed how this power will interact with other mechanisms with respect to the requirement for Transco to act in an appropriate and cost efficient manner within the market. The lack of clarity of how Transco will act in such a situation prevents users from making appropriate preparations to deal with the situation commercially.

The proposer has stated that this modification will "lead to improvements in market information" but has not explained how. The proposer has also stated that this modification will "sharpen incentives, which would, in turn, serve to avert the

emergency". CSL agrees that incentives will be sharpened, but believes that the incentive is perverse and is more likely to cause an emergency to happen (as earlier explained). CSL agrees that some Users will have limited scope to avert an emergency because they will be unable to make significant difference to net storage stocks.

CSL believes that this change and modification is contra to the relevant objective for "securing effective competition" because it causes storage flows to reduce in a non-emergency situation without considering other mechanisms which could compete to avert the emergency.

Storage monitor levels are currently set by Transco using a non-transparent and arbitrary mechanism. CSL believes that Transco's ownership of the UK's LNG storage facilities will influence the determination of the monitor levels and their allocation to different storage types which will cause undue discrimination against other storage types. We believe this may raise concerns with respect to Chapter 2 of the 1998 Competition Act. The lack of transparency of the basis for the setting of storage monitor levels creates a huge degree of uncertainty for storage facility owners, Users and potential investors about the ability to realise the full market value of storage.

### **3. The implications of implementing the Modification Proposal on security of supply, operation of the Total System and industry fragmentation**

CSL believes that this Safety Case change and modification is likely to reduce security of supply through unintended new short term incentives and discrimination against new storage build. Our reasons are explained more fully elsewhere in this response.

We make no comments on this modifications effect on DN operation.

### **4. The implications for Transporters and each Transporter of implementing the Modification Proposal, including**

#### **a) implications for operation of the system**

CSL does not agree with the proposer's statement "The Proposal will establish clear process for the management of storage flows during a NGSE to secure remaining storage stocks to meet priority load demand and other Protected By Monitor consumers." This is because the management of storage flows under a NGSE is governed by the Safety Case as described in the Gas Act. The UNC does not influence gas flows during a NGSE.

CSL's Storage Services Contract does not currently allow Users flows to be constrained unless a Gas Deficit Emergency has been declared. CSL's Storage Services Contract will require urgent change if this modification is implemented.

Under the proposed arrangements an actual Storage Monitor breach cannot be caused by Users withdrawing gas because of the control actions of the NEC. The market will therefore always continue to operate whilst Storage stocks are constrained. This will lead to extended periods of parallel command and control and distorted market operation.

#### **b) development and capital cost and operating cost implications**

When Storage withdrawals are constrained then the system will become shorter and cause the within day price to increase. This will lead to higher balancing costs.

Localised shortfalls could occur leading to additional compression and/or locational actions causing Transco additional costs.

#### **c) extent to which it is appropriate to recover the costs, and proposal for the most appropriate way to recover costs.**

CSL is concerned that this change and modification gives Transco command and control powers, which lie outside it's incentives to manage the system economically and efficiently, for circumstances where interruptible interruption and/or other mechanisms may be more appropriate to manage the situation commercially.

### **5. The consequences of implementing the Modification Proposal on the level of contractual risk of each Transporter under the Code as modified by the Modification Proposal.**

CSL believes that the change to the Safety Case and this proposal will reduce Transco's risk of receiving adverse publicity and it's costs of the consequences of declaring a full Gas Emergency. We do not believe these cost reductions are sufficient to justify the proposal because of the additional balancing risk caused to Users.

6. No comments

## **7. The implications of implementing the Modification Proposal for Users, including administrative and operational costs and level of contractual risk**

CSL does not believe that this proposal will affect the amount of available gas in storage facilities. We do believe that the change will cause the stocks to be used more quickly.

More rapid reduction in storage stocks will lead to inefficient use of that gas and ultimately lead to more risk of constraints which will cause higher gas prices.

CSL is unable to comment on the availability of interruptible gas contracts however we believe these changes will cause interruption to be more likely.

There can be no doubt that constraint of storage withdrawals will lead to storage users becoming short of gas and exposed to greater balancing costs. The extent of this exposure becomes higher if the monitor level for that facility becomes higher. This will lead to increased risk for Storage users and ultimately increased pricing for Winter storage gas supply or the limited alternative sources of swing.

## **8. The implications of implementing the Modification Proposal for Terminal Operators, Consumer, Connected System Operators, Suppliers, producers and any Non Code Party**

CSL agrees with the Storage Operators and other members views that were raised in the meeting.

We do not agree with Transco' s suggestion that priority loads would be better conserved after implementation. There may be some short term (within emergency) merit in the changes which have not been presented in the modification report but we believe that the medium (winter) and longer term (investment) safety of the system will be damaged.

## **9. Consequences on the legislative and regulatory obligations and contractual relationship of each Transporter and each User and Non Code Party of implementing the Modification Proposal**

The modification fails to address any form of compensation for constrained storage Users, this will create conflict between the obligations under the Safety Case procedures and the commercial arrangements of the UNC.

## **10. Analysis of any advantages or disadvantages of implementation of the Modification Proposal.**

### **Advantages**

CSL does not believe that this modification will provide any more clarity than the Safety Case which has already been issued to Users.

CSL disagrees that this modification (and the new safety case change) will protect domestic or priority loads to any more extent than previous arrangements.

CSL disagrees that this modification will provide any improvements to market information.

CSL agrees that market incentives will be sharpened but believes that the sharpened incentives would be contra to the intentions of the modification and the relevant objectives.

### **Disadvantages**

We believe that within the workstream referred to only Transco believed that implementation would offer enhanced security of supply, the modification in-accurately states that more than one member of the Workstream believed this.

CSL agrees that implementation is likely to lead to a long term reduction in security of supply.

CSL agrees that implementation will lead to adverse effects upon the daily balancing regime and incentives due to parallel operation of "command and control" arrangements along side an operating market.

Storage services contracts could be undermined and will require re-negotiation. CSL's Rough storage contract will require re-negotiation.

This change and modification will lead to increased balancing costs in the event of a "Potential Monitor Breach". These costs will be born by Users rather than Transco, as stated in the modification.

**12. The extent to which the implementation is required to enable each Transporter to facilitate compliance with safety of other legislation.**

Alignment of the UNC with the Safety Case is not a requirement of the Gas Act as the modification states nor is it a requirement of the GS(M)R regulations.

**15. Proposed implementation timetable (including timetable for any necessary information systems changes)**

CSL requests that sufficient time be allowed for changes to our Storage Services Contract to be negotiated, approved by Ofgem and implemented before any changes to the UNC are implemented.

**Comments Specific to Legal Drafting**

The modification makes a change to Q4.2.4 to include the Safety Monitor Emergency but continues to only allow compensation claims for "gas delivered to the Total System". This prevents compensation claims for gas constrained from flowing. This clause should have been amended with the introduction of the safety monitor, this modification makes this change an urgent requirement due to the increased balancing exposure to Storage Users.

Q4.2.4 Does not allow compensation claims for the NEC's actions during a Potential Safety Monitor Emergency -where flows will be restricted.

Z6.7.1 The intent of this clause is for it to be used in a supply shortfall where the market is shutdown. If it is applied for a Monitor Emergency then it could perversely force storage Users to withdraw stock that they did not intend to withdraw. CSL believes that an interruption type mechanism would be much more fair and equitable for this type of emergency.

**Conclusions**

Storage Users buy their product for commercial reasons. Other Shippers elect not to book storage, and meet their flexibility requirements through other measures such as flexible contracts, interruption, options and Interconnector capacity. The parallel use of storage facilities for both commercial and security of supply purposes creates a conflict of interests. The decision to withdraw storage gas must remain the commercial decision of the storage User, and not be subject to the control of the transporter until the commercial market has failed and been suspended.

It is not reasonable, rational or fair that the costs of maintaining a reserve of gas for domestic and priority customers is levied solely on storage customers.

CSL urges the Industry to re-address the current arrangements for security of supply, the safety case and application in the UNC in a more comprehensive manner and forum. Recent changes, such as removal of Top Up and the safety case have caused an number of discrepancies between the original intent of the Network Code and the current situation which cannot be addressed in an ad-hoc manner.

We stress the point that the Safety Case affects all participants of the industry, it's control must move away from the current "black box" arrangement and become more transparent, especially where it impacts the commercial operation of the market.

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